

PROVIDING FOR THE CONSIDERATION OF H.R. 1530, THE  
NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL  
YEAR 1996

---

JUNE 8, 1995.—Referred to the House Calendar and ordered to be printed

---

Mr. SOLOMON, from the Committee on Rules,  
submitted the following

REPORT

[To accompany H. Res. 164]

The Committee on Rules, having had under consideration House Resolution 164, by a record vote of 8 to 4, report the same to the House with the recommendation that the resolution be adopted.

BRIEF SUMMARY OF PROVISIONS OF RESOLUTION

The resolution provides for the consideration of H.R. 1530, the “National Defense Authorization Act,” under a structured rule. The rule waives all points of order against the bill and provides two hours of general debate divided equally between the chairman and ranking minority member of the Committee on National Security.

The rule makes in order the National Security committee amendment in the nature of a substitute, as modified by striking section 807 (recoupment), and by an amendment printed in part 3 of the report on this rule (dealing with the Elk Hills Naval Petroleum Reserve), as original text for amendment purposes. The substitute shall be considered as read. The rule waives all points of order against the substitute.

Unless otherwise specified in the rule, the rule makes in order only amendments printed in the Rules Committee report, certain amendments en bloc, and pro forma amendments offered by the chairman and ranking minority member of the National Security Committee. Except as otherwise specified in the rule, the amendments shall be considered in the order and manner specified in the report. The rule provides that amendments printed in Part 2 of the report shall be debatable for 10-minutes each, equally divided and controlled by the proponent and opponent. The amendments shall

be considered as read and are not subject to amendment unless otherwise specified in the report, and are not subject to a demand for a division of the question in the House or Committee of the Whole. The rule waives all points of order against the amendments printed in the report. The rule provides for an extra 30-minutes of general debate on Cooperative Threat Reduction with the former Soviet Union (Part 1, subpart A); and, an extra 60-minutes of general debate on ballistic missile defense (Part 1, subpart D).

The rule provides that Rep. Clinger may offer a germane modification to his amendment on acquisition reform with the concurrence of Rep. Collins of Illinois.

The chairman of the National Security Committee or his designee is authorized to offer amendments en bloc consisting of amendments in part 2 of the report or germane modifications thereto, which shall be considered as read except that modifications shall be reported, and which shall not be subject to amendment or a division of the question in the House or Committee of the Whole, and which shall be debatable for 20-minutes. The rule waives all points of order against the en bloc amendments.

The rule authorizes the Chairman of the Committee of the Whole to postpone consideration of a request for a recorded vote on any amendment and to reduce to 5-minutes the time for voting after the first of a series of votes.

The Chairman of the Committee of the Whole is also authorized to recognize for consideration of any amendment printed in the report out of the order in which printed but not sooner than one hour after the chairman of the National Security Committee or a designee announces from the floor a request to that effect.

The rule authorizes the chairman of the National Security Committee to offer an amendment not printed in the report to reconcile spending levels of bill with the final defense spending level contained in the conference report on the budget resolution, which shall be considered as read, shall not be subject to amendment or to a demand for a division of the question, and which shall be debatable for 10-minutes equally divided between the chairman and ranking minority member of the National Security Committee.

Finally, the rule provides for one motion to recommit, with or without instructions.

#### COMMITTEE VOTES

Pursuant to clause 2(l)(2)(B) of House rule XI the results of each rollcall vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

#### *Rules Committee rollcall No. 147*

Date: June 8, 1995.

Measure: Rule for the consideration of H.R. 1530, National Defense Authorization Act.

Motion By: Mr. Moakley.

Summary of Motion: Make in order Schroeder amendment No. 48 providing for a 4 percent across-the-board reduction in the funding levels in the bill.

Results: Rejected, 4 to 8.

Vote by Member: Quillen—Nay; Dreier—Nay; Goss—Nay; Linder—Nay; Pryce—Nay; Diaz-Balart—Nay; Waldholtz—Nay; Moakley—Yea; Beilenson—Yea; Frost—Yea; Hall—Yea; Solomon—Nay.

*Rules Committee rollcall No. 148*

Date: June 8, 1995.

Measure: Rule for consideration of H.R. 1530, National Defense Authorization Act.

Motion By: Mr. Hall.

Summary of Motion: Make in order Evans amendment No. 82 to restore \$282 million for the Department of Energy's environmental restoration and waste management programs.

Results: Rejected, 4 to 8.

Vote by Member: Quillen—Nay; Dreier—Nay; Goss—Nay; Linder—Nay; Pryce—Nay; Diaz-Balart—Nay; Waldholtz—Nay; Moakley—Yea; Beilenson—Yea; Frost—Yea; Hall—Yea; Solomon—Nay.

*Rules Committee rollcall No. 149*

Date: June 8, 1995.

Measure: Rule for consideration of H.R. 1530, National Defense Authorization Act.

Motion By: Mr. Goss.

Summary of Motion: To report the rule.

Results: Adopted, 8 to 4.

Vote by Member: Quillen—Yea; Dreier—Yea; Goss—Yea; Linder—Yea; Pryce—Yea; Diaz-Balart—Yea; Waldholtz—Yea; Moakley—Nay; Beilenson—Nay; Frost—Nay; Hall—Nay; Solomon—Yea.

PART 1

Subpart A: The B-2

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE KASICH OF OHIO OR A DESIGNEE, DEBATABLE FOR 60 MINUTES

Strike out section 141 (page 21, lines 2 through 15) and insert in lieu thereof the following:

**SEC. 141. LIMITATION ON AIRCRAFT PROCUREMENT FUNDING.**

The amount provided in section 103 for procurement of aircraft for the Air Force is hereby reduced by \$553,000,000. None of the amount appropriated pursuant to authorization of appropriations in section 103 may be obligated for procurement of long-lead items for procurement of B-2 aircraft beyond the 20 deployable aircraft and one test aircraft authorized by law before the date of the enactment of this Act.

---

Subpart B: Cooperative Threat Reduction With the Former Soviet Union

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE DORNAN OF CALIFORNIA OR A DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of title XI (page 383, after line 9), insert the following new section:

**SEC. 1108. LIMITATION ON COOPERATIVE THREAT REDUCING PROGRAM RELATING TO OFFENSIVE BIOLOGICAL WEAPONS PROGRAM IN RUSSIA.**

None of the funds appropriated pursuant to the authorization in section 301 for Cooperative Threat Reduction programs may be obligated or expended for programs or activities with Russia unless and until the President submits to Congress a certification in writing that Russia has terminated its offensive biological weapons program.

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE HAMILTON OF INDIANA OR A DESIGNEE, DEBATABLE FOR 10 MINUTES

Strike section 1105.

Redesignate section 1106 and 1107 as sections 1105 and 1106 respectively.

Subpart C: Acquisition Reform

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CLINGER OF PENNSYLVANIA OR A DESIGNEE, DEBATABLE FOR 40 MINUTES

After the heading for title VIII (page 323, after line 15), insert the following (and conform the table of contents accordingly):

**Subtitle A—Competition**

**SEC. 801. IMPROVEMENT OF COMPETITION REQUIREMENTS.**

(a) ARMED SERVICES ACQUISITIONS.—(1) Section 2304 of title 10, United States Code, is amended to read as follows:

**“§ 2304. Contracts: competition requirements**

“(a) MAXIMUM PRACTICABLE COMPETITION.—Except as provided in subsections (b), (c), and (e) and except in the case of procurement procedures otherwise expressly authorized by statute, the head of an agency in conducting a procurement for property or services—

“(1) shall obtain maximum practicable competition through the use of competitive procedures consistent with the need to efficiently fulfill the Government’s requirements in accordance with this chapter and the Federal Acquisition Regulation; and

“(2) shall use the competitive procedure or combination of competitive procedures that is best suited under the circumstances of the procurement.

“(b) EXCLUSION OF PARTICULAR SOURCE.—The head of an agency may provide for the procurement of property or services covered by

this chapter using competitive procedures but excluding a particular source in order to establish or maintain an alternative source or sources of supply for that property or service. The Federal Acquisition Regulation shall set forth the circumstances under which a particular source may be excluded pursuant to this subsection.

“(c) EXCLUSION OF CONCERNS OTHER THAN SMALL BUSINESS CONCERNS AND CERTAIN OTHER ENTITIES.—The head of an agency may provide for the procurement of property or services covered by this section using competitive procedures, but excluding concerns other than small business concerns in furtherance of sections 9 and 15 of the Small Business Act (15 U.S.C. 638, 644) and concerns other than small business concerns, historically Black colleges and universities, and minority institutions in furtherance of section 2323 of this title.

“(d) PROCEDURES OTHER THAN COMPETITIVE PROCEDURES.—Procedures other than competitive procedures may be used for purchasing property and services only when the use of competitive procedures is not feasible or appropriate. Each procurement using procedures other than competitive procedures (other than a procurement for commercial items or a procurement in an amount not greater than the simplified acquisition threshold) shall be justified in writing and approved in accordance with the Federal Acquisition Regulation.

“(e) SIMPLIFIED PROCEDURES.—(1) In order to promote efficiency and economy in contracting and to avoid unnecessary burdens for agencies and contractors, the Federal Acquisition Regulation shall provide for special simplified procedures for purchases of property and services for amounts not greater than the simplified acquisition threshold.

“(2) A proposed purchase or contract for an amount above the simplified acquisition threshold may not be divided into several purchases or contracts for lesser amounts in order to use the simplified procedures required by paragraph (1).

“(3) In using simplified procedures, the head of an agency shall ensure that competition is obtained to the extent practicable consistent with the particular Government requirement.

“(f) CERTAIN CONTRACTS.—For the purposes of the following laws, purchases or contracts awarded after using procedures other than sealed-bid procedures shall be treated as if they were made with sealed-bid procedures:

“(1) The Walsh-Healey Act (41 U.S.C. 35–45).

“(2) The Act entitled ‘An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes’, approved March 3, 1931 (commonly referred to as the ‘Davis-Bacon Act’) (40 U.S.C. 276a–276a–5).”.

(2) Chapter 137 of title 10, United States Code, is amended by inserting before section 2305 a new section—

(A) the designation and heading for which is as follows:

**“§ 2304f. Merit-based selection”; and**

(B) the text of which consists of subsection (j) of section 2304 of such title, as in effect on the day before the date of the enactment of this Act, modified—

(i) by striking out the subsection designation and the subsection heading;

(ii) in paragraphs (2)(A), (3), and (4), by striking out “subsection” and inserting in lieu thereof “section” each place it appears;

(iii) in paragraph (2)(C), by striking out “paragraph (1)” and inserting in lieu thereof “subsection (a)”;

(iv) by redesignating paragraphs (1), (2), (3), and (4) as subsections (a), (b), (c), and (d), respectively; and

(v) in subsection (b) (as so redesignated), by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively.

(3) The table of sections at the beginning of such chapter is amended by inserting before the item relating section 2305 the following new item:

“2304f. Merit-based selection.”.

(b) CIVILIAN AGENCY ACQUISITIONS.—(1) Section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) is amended to read as follows:

**“SEC. 303. CONTRACTS: COMPETITION REQUIREMENTS.**

“(a) MAXIMUM PRACTICABLE COMPETITION.—Except as provided in subsections (b), (c), and (e) and except in the case of procurement procedures otherwise expressly authorized by statute, an executive agency in conducting a procurement for property or services—

“(1) shall obtain maximum practicable competition through the use of competitive procedures consistent with the need to efficiently fulfill the Government’s requirements in accordance with this chapter and the Federal Acquisition Regulation; and

“(2) shall use the competitive procedure or combination of competitive procedures that is best suited under the circumstances of the procurement.

“(b) EXCLUSION OF PARTICULAR SOURCE.—An executive agency may provide for the procurement of property or services covered by this chapter using competitive procedures but excluding a particular source in order to establish or maintain an alternative source or sources of supply for that property or service. The Federal Acquisition Regulation shall set forth the circumstances under which a particular source may be excluded pursuant to this subsection.

“(c) EXCLUSION OF CONCERNS OTHER THAN SMALL BUSINESS CONCERNS AND CERTAIN OTHER ENTITIES.—An executive agency may provide for the procurement of property or services covered by this section using competitive procedures, but excluding concerns other than small business concerns in furtherance of sections 9 and 15 of the Small Business Act (15 U.S.C. 638, 644) and concerns other than small business concerns, historically Black colleges and universities, and minority institutions in furtherance of section 7102 of the Federal Acquisition Streamlining Act of 1994 (15 U.S.C. 644 note).

“(d) PROCEDURES OTHER THAN COMPETITIVE PROCEDURES.—Procedures other than competitive procedures may be used for purchasing property and services only when the use of competitive procedures is not feasible or appropriate. Each procurement using procedures other than competitive procedures (other than a procurement for commercial items or a procurement in an amount not greater than the simplified acquisition threshold) shall be justified in writing and approved in accordance with the Federal Acquisition Regulation.

“(e) SIMPLIFIED PROCEDURES.—(1) In order to promote efficiency and economy in contracting and to avoid unnecessary burdens for agencies and contractors, the Federal Acquisition Regulation shall provide for special simplified procedures for purchases of property and services for amounts not greater than the simplified acquisition threshold.

“(2)(A) The Administrator of General Services shall prescribe regulations that provide special simplified procedures for acquisitions of leasehold interests in real property at rental rates that do not exceed the simplified acquisition threshold.

“(B) For purposes of subparagraph (A), the rental rate or rates under a multiyear lease do not exceed the simplified acquisition threshold if the average annual amount of the rent payable for the period of the lease does not exceed the simplified acquisition threshold.

“(3) A proposed purchase or contract or for an amount above the simplified acquisition threshold may not be divided into several purchases or contracts for lesser amounts in order to use the simplified procedures required by paragraph (1).

“(4) In using simplified procedures, an executive agency shall ensure that competition is obtained to the extent practicable consistent with the particular Government requirement.”

(2) Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended by inserting after section 303L a new section—

(A) the designation and heading for which is as follows:

“**SEC. 303M. MERIT-BASED SELECTION.**”; and

(B) the text of which consists of subsection (h) of section 303 of such Act, as in effect on the day before the date of the enactment of this Act, modified—

(i) by striking out the subsection designation and the subsection heading;

(ii) in paragraphs (2)(A), (3), and (4), by striking out “subsection” and inserting in lieu thereof “section” each place it appears;

(iii) in paragraph (2)(C), by striking out “paragraph (1)” and inserting in lieu thereof “subsection (a)”;

(iv) by redesignating paragraphs (1), (2), (3), and (4) as subsections (a), (b), (c), and (d), respectively; and

(v) in subsection (b) (as so redesignated), by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively.

(3) The table of contents for the Federal Property and Administrative Services Act of 1949 (contained in section 1(b)) is amended—

(A) by striking out the item relating to section 303 and inserting in lieu thereof the following:

“Sec. 303. Contracts: competition requirements.”; and

(B) by inserting after the item relating to section 303L the following new item:

“Sec. 303M. Merit-based selection.”.

(c) REVISIONS TO PROCUREMENT NOTICE PROVISIONS.—Section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) is amended in subsection (b)(4)—

(1) by striking out “all”; and

(2) by striking out “(as appropriate) which shall be considered by the agency”.

(d) REPEAL OF DUPLICATIVE PROVISIONS.—Section 8 of the Small Business Act (15 U.S.C. 637) is amended—

(1) by striking out subsections (e), (f), (g), (h), and (i); and

(2) by redesignating subsection (j) as subsection (e).

(e) EXECUTIVE AGENCY RESPONSIBILITIES.—(1) Section 16 of the Office of Federal Procurement Policy Act (41 U.S.C. 414) is amended—

(A) by striking out “achieve” in the matter preceding paragraph (1) and inserting in lieu thereof “promote”; and

(B) by amending paragraph (1) to read as follows:

“(1) to implement maximum practicable competition in the procurement of property or services by the executive agency by establishing policies, procedures, and practices that are consistent with the need to efficiently fulfill the Government’s requirements;”.

(2) Section 20 of such Act (41 U.S.C. 418) is amended in subsection (a)(2)(A) by striking out “serving in a position authorized for such executive agency on the date of enactment of the Competition in Contracting Act of 1984”.

#### **SEC. 802. DEFINITION RELATING TO COMPETITION REQUIREMENTS.**

(a) DEFINITION.—Paragraph (6) of section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403) is amended to read as follows:

“(6) The term ‘maximum practicable competition’, when used with respect to a procurement, means that the maximum number of responsible or verified sources, consistent with the particular Government requirement, are permitted to submit sealed bids or competitive proposals on the procurement.”.

(b) CONFORMING AMENDMENTS.—

(1) OFFICE OF FEDERAL PROCUREMENT POLICY ACT.—The Office of Federal Procurement Policy Act is further amended—

(A) in section 4(5), by striking out “full and open” and inserting “maximum practicable”; and

(B) in section 20, by striking out “full and open” and inserting in lieu thereof “maximum practicable” each place it appears in subsection (b)(1), subsection (b)(3)(A), subsection (b)(4)(C), and subsection (c);

(2) TITLE 10.—Title 10, United States Code, is amended—



(A) in section 2302(2), by striking out “pursuant to full and open competition” and inserting in lieu thereof “using maximum practicable competition”;

(B) in section 2323(e)(3), by striking out “less than full and open” and inserting in lieu thereof “procedures other than”; and

(C) in each of the following sections, by striking out “full and open” and inserting in lieu thereof “maximum practicable”:

- (i) Section 2302(3).
- (ii) Section 2305(a)(1)(A)(i).
- (iii) Section 2305(a)(1)(A)(iii).
- (iv) Section 2323(i)(3)(A).

(3) FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended—

(A) in section 309(b), by striking out “pursuant to full and open competition” and inserting in lieu thereof “using maximum practicable competition”; and

(B) in each of the following sections, by striking out “full and open” and inserting in lieu thereof “maximum practicable”:

- (i) Section 303A(a)(1)(A).
- (ii) Section 303A(a)(1)(C).
- (iii) Section 304B(a)(2)(B).
- (iv) Section 309(c)(4).

(4) OTHER LAWS.—(A) Section 7102 of the Federal Acquisition Streamlining Act of 1994 (108 Stat. 3367; 15 U.S.C. 644 note) is amended in subsection (a)(1)(A) by striking out “less than full and open competition” and inserting in lieu thereof “procedures other than competitive procedures”.

(B) Section 15(l) of the Small Business Act (15 U.S.C. 644(l)) is amended in paragraph (1) and in paragraph (2)(A) by striking out “full and open” and inserting in lieu thereof “maximum practicable” each place it appears.

#### **SEC. 803. CONTRACT SOLICITATION AMENDMENTS.**

(a) ARMED SERVICES ACQUISITIONS.—Section 2305 of title 10, United States Code, is amended—

(1) in subsection (a)(1)—

(A) by striking out subparagraph (B); and

(B) by redesignating subparagraph (C) as subparagraph (B) and in that subparagraph by striking out “subparagraphs (A) and (B)” and inserting in lieu thereof “subparagraph (A)”; and

(2) in subsection (b)(4)(A)(i), by striking out “all” and inserting in lieu thereof “the”.

(b) CIVILIAN AGENCY ACQUISITIONS.—(1) Section 303A of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253a) is amended—

(A) by striking out paragraph (2); and

(B) by redesignating paragraph (3) as paragraph (2) and in that paragraph by striking out “paragraphs (1) and (2)” and inserting in lieu thereof “paragraph (1)”.

(2) Section 303B(d)(1)(A) of such Act (41 U.S.C. 253b) is amended by striking out “all” and inserting in lieu thereof “the”.

**SEC. 804. PREAWARD DEBRIEFINGS.**

(a) ARMED SERVICES ACQUISITIONS.—Section 2305(b) of title 10, United States Code, is amended—

- (1) by striking out subparagraph (F) of paragraph (5);
- (2) by redesignating paragraph (6) as paragraph (8); and
- (3) by inserting after paragraph (5) the following new paragraphs:

“(6)(A) When the contracting officer excludes an offeror submitting a competitive proposal from the competitive range (or otherwise excludes such an offeror from further consideration prior to the final source selection decision), the excluded offeror may request in writing, within three days after the date on which the excluded offeror receives notice of its exclusion, a debriefing prior to award. The contracting officer shall make every effort to debrief the unsuccessful offeror as soon as practicable and may refuse the request for a debriefing if it is not in the best interests of the Government to conduct a debriefing at that time.

“(B) The contracting officer is required to debrief an excluded offeror in accordance with paragraph (5) of this section only if that offeror requested and was refused a preaward debriefing under subparagraph (A) of this paragraph.

“(C) The debriefing conducted under this subsection shall include—

“(i) the executive agency’s evaluation of the significant elements in the offeror’s offer;

“(ii) a summary of the rationale for the offeror’s exclusion; and

“(iii) reasonable responses to relevant questions posed by the debriefed offeror as to whether source selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the executive agency.

“(D) The debriefing conducted pursuant to this subsection may not disclose the number or identity of other offerors and shall not disclose information about the content, ranking, or evaluation of other offerors’ proposals.

“(7) The contracting officer shall include a summary of any debriefing conducted under paragraph (5) or (6) in the contract file.”.

(b) CIVILIAN AGENCY ACQUISITIONS.—Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b) is amended—

- (1) by striking out paragraph (6) of subsection (e);

(2) by redesignating subsections (f), (g), (h), and (i) as subsections (h), (i), (j), and (k), respectively; and

- (3) by inserting after subsection (e) the following new subsections:

“(f)(1) When the contracting officer excludes an offeror submitting a competitive proposal from the competitive range (or otherwise excludes such an offeror from further consideration prior to the final source selection decision), the excluded offeror may request in writing, within 3 days after the date on which the ex-

cluded offeror receives notice of its exclusion, a debriefing prior to award. The contracting officer shall make every effort to debrief the unsuccessful offeror as soon as practicable and may refuse the request for a debriefing if it is not in the best interests of the Government to conduct a debriefing at that time.

“(2) The contracting officer is required to debrief an excluded offeror in accordance with subsection (e) of this section only if that offeror requested and was refused a preaward debriefing under paragraph (1) of this subsection.

“(3) The debriefing conducted under this subsection shall include—

“(A) the executive agency’s evaluation of the significant elements in the offeror’s offer;

“(B) a summary of the rationale for the offeror’s exclusion; and

“(C) reasonable responses to relevant questions posed by the debriefed offeror as to whether source selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the executive agency.

“(4) The debriefing conducted pursuant to this subsection may not disclose the number or identity of other offerors and shall not disclose information about the content, ranking, or evaluation of other offerors’ proposals.

“(g) The contracting officer shall include a summary of the any debriefing conducted under subsection (e) or (f) in the contract file.”.

#### **SEC. 805. CONTRACT TYPES.**

(a) ARMED SERVICES ACQUISITIONS.—(1) Section 2306 of title 10, United States Code, is amended—

(A) by inserting before the period at the end of subsection (a) the following: “, based on market conditions, established commercial practice (if any) for the product or service being acquired, and sound business judgment”;

(B) by striking out subsections (b), (d), (e), (f), and (h); and

(C) by redesignating subsection (g) as subsection (b).

(2) The heading of such section is amended to read as follows:

#### **“§ 2306. Contract types”.**

(b) CIVILIAN AGENCY ACQUISITIONS.—(1) Section 304 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254) is amended—

(A) by inserting before the period at the end of the first sentence of subsection (a) the following: “, based on market conditions, established commercial practice (if any) for the product or service being acquired, and sound business judgment”; and

(B) by striking out “Every contract award” in the second sentence of subsection (a) and all that follows through the end of the section.

(2) The heading of such section is amended to read as follows:

#### **“SEC. 304. CONTRACT TYPES.”.**

(c) CONFORMING REPEALS.—(1) Sections 4540, 7212, and 9540 of title 10, United States Code, are repealed.

(2) The table of sections at the beginning of chapter 433 of such title is amended by striking out the item relating to section 4540.

(3) The table of sections at the beginning of chapter 631 of such title is amended by striking out the item relating to section 7212.

(4) The table of sections at the beginning of chapter 933 of such title is amended by striking out the item relating to section 9540.

(d) CIVIL WORKS AUTHORITY.—(1) Chapter 137 of title 10, United States Code, is amended by adding at the end the following new section:

**“§ 2332. Contracts for architectural and engineering services and construction design**

“The Secretary of Defense and the Secretaries of the military departments may enter into contracts for architectural and engineering services in connection with a military construction or family housing project or for other Department of Defense or military department purposes. Such contracts shall be awarded in accordance with the Brooks Architect-Engineers Act (40 U.S.C. 541 et seq.).”.

(2) The table of sections at the beginning of chapter 137 of such title is amended by adding at the end the following new item:

“2332. Contracts for architectural and engineering services and construction design.”.

(3) Section 2855 of such title is repealed. The table of sections at the beginning of chapter 169 of such title is amended by striking out the item relating to such section.

**SEC. 806. CONTRACTOR PERFORMANCE.**

(a) REQUIREMENT FOR SYSTEM.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by adding at the end the following new section:

**“SEC. 35. CONTRACTOR PERFORMANCE.**

“(a) VERIFICATION AUTHORIZED.—The Federal Acquisition Regulation shall provide a contractor verification system for the procurement of particular property or services that are procured by executive agencies on a repetitive basis. Under the system, the head of an executive agency—

“(1) shall use competitive procedures to verify contractors as eligible for contracts to furnish such property or services; and

“(2) shall award verifications on the basis of the relative efficiency and effectiveness of the business practices, level of quality, and demonstrated contract performance of the responding contractors with regard to the particular property or services.

“(b) PROCUREMENT FROM VERIFIED CONTRACTORS.—The Federal Acquisition Regulation shall provide procedures under which the head of an executive agency may enter into a contract for a procurement of property or services referred to in subsection (a) on the basis of a competition among contractors verified with respect to such property or services pursuant to that subsection.

“(c) TERMINATION OF VERIFICATION.—The Federal Acquisition Regulation shall provide procedures under which the head of an executive agency—

“(1) may provide for the termination of a verification awarded a contractor under this section upon the expiration of a period specified by the head of an executive agency; and

“(2) may revoke a verification awarded a contractor under this section upon a determination that the quality of performance of the contractor does not meet standards applied by the head of the executive agency as of the time of the revocation decision.”.

(b) **REPEALS.**—Section 2319 of title 10, United States Code, is repealed. Section 303C of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253c) is repealed.

(c) **CLERICAL AMENDMENTS.**—(1) The table of contents for the Office of Federal Procurement Policy Act (contained in section 1(b)) is amended by adding at the end the following new item:

“Sec. 35. Contractor performance.”.

(2) The table of sections at the beginning of chapter 137 of title 10, United States Code, is amended by striking out the item relating to section 2319.

(3) The table of contents for the Federal Property and Administrative Services Act of 1949 (contained in section 1(b)) is amended by striking out the item relating to section 303C.

## **Subtitle B—Commercial Items**

### **SEC. 811. COMMERCIAL ITEM EXCEPTION TO REQUIREMENT FOR COST OR PRICING DATA AND INFORMATION LIMITATIONS.**

(a) **ARMED SERVICES ACQUISITIONS.**—(1) Subsections (b), (c), and (d) of section 2306a of title 10, United States Code, are amended to read as follows:

“(b) **EXCEPTIONS.**—

“(1) **IN GENERAL.**—Submission of cost or pricing data shall not be required under subsection (a) in the case of a contract, a subcontract, or modification of a contract or subcontract—

“(A) for which the price agreed upon is based on—

“(i) adequate price competition; or

“(ii) prices set by law or regulation;

“(B) for the acquisition of a commercial item; or

“(C) in an exceptional case when the head of the procuring activity, without delegation, determines that the requirements of this section may be waived and justifies in writing the reasons for such determination.

“(2) **MODIFICATIONS OF CONTRACTS AND SUBCONTRACTS FOR COMMERCIAL ITEMS.**—In the case of a modification of a contract or subcontract for a commercial item that is not covered by the exception on the submission of cost or pricing data in paragraph (1)(A) or (1)(B), submission of cost or pricing data shall not be required under subsection (a) if—

“(A) the contract or subcontract being modified is a contract or subcontract for which submission of cost or pricing data may not be required by reason of paragraph (1)(A) or (1)(B); and

“(B) the modification would not change the contract or subcontract, as the case may be, from a contract or subcontract for the acquisition of a commercial item to a con-

tract or subcontract for the acquisition of an item other than a commercial item.

“(c) **AUTHORITY TO REQUIRE COST OR PRICING DATA ON BELOW-THRESHOLD CONTRACTS.**—(1) Subject to paragraph (2), when certified cost or pricing data are not required to be submitted by subsection (a) for a contract, subcontract, or modification of a contract or subcontract, such data may nevertheless be required to be submitted by the head of the procuring activity, but only if the head of the procuring activity determines that such data are necessary for the evaluation by the agency of the reasonableness of the price of the contract, subcontract, or modification of a contract or subcontract. In any case in which the head of the procuring activity requires such data to be submitted under this subsection, the head of the procuring activity shall justify in writing the reason for such requirement.

“(2) The head of the procuring activity may not require certified cost or pricing data to be submitted under this paragraph for any contract or subcontract, or modification of a contract or subcontract, covered by the exceptions in subparagraph (A) or (B) of subsection (b)(1).

“(3) The head of a procuring activity may not delegate functions under this paragraph.

“(d) **LIMITATIONS ON OTHER INFORMATION.**—The Federal Acquisition Regulation shall include the following:

“(1) Provisions concerning the types of information that contracting officers may consider in determining whether the price of a procurement to the Government is fair and reasonable when certified cost or pricing data are not required to be submitted under this section, including appropriate information on the prices at which the same item or similar items have previously been sold that is adequate for evaluating the reasonableness of the price of the proposed contract or subcontract for the procurement.

“(2) Reasonable limitations on requests for sales data relating to commercial items.

“(3) A requirement that a contracting officer shall, to the maximum extent practicable, limit the scope of any request for information relating to commercial items from an offeror to only that information that is in the form regularly maintained by the offeror in commercial operations.

“(4) A statement that any information received relating to commercial items that is exempt from disclosure under section 552(b) of title 5 shall not be disclosed by the Federal Government.”.

(2) Section 2306a of such title is further amended—

(A) by striking out subsection (h); and

(B) by redesignating subsection (i) as subsection (h).

(3) Section 2375 of title 10, United States Code, is amended by striking out subsection (c).

(b) **CIVILIAN AGENCY ACQUISITIONS.**—(1) Subsections (b), (c) and (d) of section 304A of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254b) are amended to read as follows:

“(b) **EXCEPTIONS.**—

“(1) IN GENERAL.—Submission of cost or pricing data shall not be required under subsection (a) in the case of a contract, a subcontract, or a modification of a contract or subcontract—

“(A) for which the price agreed upon is based on—

“(i) adequate price competition; or

“(ii) prices set by law or regulation;

“(B) for the acquisition of a commercial item; or

“(C) in an exceptional case when the head of the procuring activity, without delegation, determines that the requirements of this section may be waived and justifies in writing the reasons for such determination.

“(2) MODIFICATIONS OF CONTRACTS AND SUBCONTRACTS FOR COMMERCIAL ITEMS.—In the case of a modification of a contract or subcontract for a commercial item that is not covered by the exception on the submission of cost or pricing data in paragraph (1)(A) or (1)(B), submission of cost or pricing data shall not be required under subsection (a) if—

“(A) the contract or subcontract being modified is a contract or subcontract for which submission of cost or pricing data may not be required by reason of paragraph (1)(A) or (1)(B); and

“(B) the modification would not change the contract or subcontract, as the case may be, from a contract or subcontract for the acquisition of a commercial item to a contract or subcontract for the acquisition of an item other than a commercial item.

“(c) AUTHORITY TO REQUIRE COST OR PRICING DATA ON BELOW-THRESHOLD CONTRACTS.—(1) Subject to paragraph (2), when certified cost or pricing data are not required to be submitted by subsection (a) for a contract, subcontract, or modification of a contract or subcontract, such data may nevertheless be required to be submitted by the head of the procuring activity, but only if the head of the procuring activity determines that such data are necessary for the evaluation by the agency of the reasonableness of the price of the contract, subcontract, or modification of a contract or subcontract. In any case in which the head of the procuring activity requires such data to be submitted under this subsection, the head of the procuring activity shall justify in writing the reason for such requirement.

“(2) The head of the procuring activity may not require certified cost or pricing data to be submitted under this paragraph for any contract or subcontract, or modification of a contract or subcontract, covered by the exceptions in subparagraph (A) or (B) of subsection (b)(1).

“(3) The head of a procuring activity may not delegate the functions under this paragraph.

“(d) LIMITATIONS ON OTHER INFORMATION.—The Federal Acquisition Regulation shall include the following:

“(1) Provisions concerning the types of information that contracting officers may consider in determining whether the price of a procurement to the Government is fair and reasonable when certified cost or pricing data are not required to be submitted under this section, including appropriate information on the prices at which the same item or similar items have pre-

viously been sold that is adequate for evaluating the reasonableness of the price of the proposed contract or subcontract for the procurement.

“(2) Reasonable limitations on requests for sales data relating to commercial items.

“(3) A requirement that a contracting officer shall, to the maximum extent practicable, limit the scope of any request for information relating to commercial items from an offeror to only that information that is in the form regularly maintained by the offeror in commercial operations.

“(4) A statement that any information received relating to commercial items that is exempt from disclosure under section 552(b) of title 5 shall not be disclosed by the Federal Government.”.

(2) Section 304A of such Act is further amended—

(A) by striking out subsection (h); and

(B) by redesignating subsection (i) as subsection (h).

**SEC. 812. APPLICATION OF SIMPLIFIED PROCEDURES TO COMMERCIAL ITEMS.**

(a) ARMED SERVICES ACQUISITIONS.—Section 2304(e)(1) of title 10, United States Code, as added by section 801(a), is amended by inserting after “special simplified procedures” the following: “for purchases of commercial items and”.

(b) CIVILIAN AGENCY ACQUISITIONS.—Section 303(e)(1) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253), as added by section 801(b), is amended by inserting after “special simplified procedures” the following: “for purchases of commercial items and”.

(c) SIMPLIFIED NOTICE.—Section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) is amended in subsection (a)(5) (as redesignated by section 801(d))—

(1) by striking out “limited”; and

(2) by inserting before “submission” the following: “issuance of solicitations and the”.

**SEC. 813. AMENDMENT TO DEFINITION OF COMMERCIAL ITEMS.**

Section 4(12)(F) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)(F)) is amended by striking out “catalog”.

**SEC. 814. INAPPLICABILITY OF COST ACCOUNTING STANDARDS TO CONTRACTS AND SUBCONTRACTS FOR COMMERCIAL ITEMS.**

Subparagraph (B) of section 26(f)(2) of the Office of Federal Procurement Policy Act (41 U.S.C. 422(f)(2)) is amended—

(1) by striking out clause (i) and inserting in lieu thereof the following:

“(i) Contracts or subcontracts for the acquisition of commercial items.”; and

(2) by striking out clause (iii).

## **Subtitle C—Additional Reform Provisions**

Redesignate sections 801, 802, 803, 804, 805, 806, 807, and 808 as sections 821, 822, 823, 824, 825, 826, 827, and 828, respectively (and conform the table of contents accordingly).



Add at the end of title VIII (page 329, after line 13) the following (and conform the table of contents accordingly):

**SEC. 829. GOVERNMENT RELIANCE ON THE PRIVATE SECTOR.**

(a) GOVERNMENT RELIANCE ON THE PRIVATE SECTOR.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by inserting after section 16 the following new section:

**“SEC. 17. GOVERNMENT RELIANCE ON THE PRIVATE SECTOR.**

“It is the policy of the Federal Government to rely on the private sector to supply the products and services the Federal Government needs.”.

(b) CLERICAL AMENDMENT.—The table of contents for the Office of Federal Procurement Policy Act (contained in section 1(b)) is amended by inserting after the item relating to section 16 the following new item:

“Sec. 17. Government reliance on the private sector.”.

**SEC. 830. ELIMINATION OF CERTAIN CERTIFICATION REQUIREMENTS.**

(a) ELIMINATION OF CERTAIN STATUTORY CERTIFICATION REQUIREMENTS.—(1)(A) Section 2410 of title 10, United States Code, is amended—

(i) in the heading, by striking out “: **certification**”; and

(ii) in subsection (a)—

(I) in the heading, by striking out “CERTIFICATION”;

(II) by striking out “unless” and all that follows through “that—” and inserting in lieu thereof “unless—”; and

(III) in paragraph (2), by striking out “to the best of that person’s knowledge and belief”.

(B) The item relating to section 2410 in the table of sections at the beginning of chapter 141 of such title is amended to read as follows:

“Sec. 2410. Requests for equitable adjustment or other relief.”.

(2) Section 2410b of title 10, United States Code, is amended in paragraph (2) by striking out “certification and”.

(3) Section 1352(b)(2) of title 31, United States Code, is amended—

(A) by striking out subparagraph (C); and

(B) by inserting “and” after the semicolon at the end of subparagraph (A).

(4) Section 5152 of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701) is amended—

(A) in subsection (a)(1), by striking out “has certified to the contracting agency that it will” and inserting in lieu thereof “agrees to”;

(B) in subsection (a)(2), by striking out “contract includes a certification by the individual” and inserting in lieu thereof “individual agrees”; and

(C) in subsection (b)(1)—

(i) by striking out subparagraph (A);

(ii) by redesignating subparagraph (B) as subparagraph (A) and in that subparagraph by striking out “such certification by failing to carry out”; and

(iii) by redesignating subparagraph (C) as subparagraph (B).

(b) **ELIMINATION OF CERTAIN REGULATORY CERTIFICATION REQUIREMENTS.—**

(1) **CURRENT CERTIFICATION REQUIREMENTS.—**Not later than 210 days after the date of the enactment of this Act, any certification required of contractors or offerors by the Federal Acquisition Regulation or an executive agency procurement regulation that is not specifically imposed by statute shall be removed by the Administrator for Federal Procurement Policy from the Federal Acquisition Regulation or such agency regulation unless—

(A) written justification for such certification is provided to the Administrator (i) by the Federal Acquisition Regulatory Council (in the case of a certification in the Federal Acquisition Regulation), or (ii) by the head of an executive agency (in the case of a certification in an executive agency procurement regulation); and

(B) the Administrator approves in writing the retention of such certification.

(2) **FUTURE CERTIFICATION REQUIREMENTS.—**(A) Section 29 of the Office of Federal Procurement Policy Act (41 U.S.C. 425) is amended—

(i) by amending the heading to read as follows:

**“SEC. 22. CONTRACT CLAUSES AND CERTIFICATIONS.”;**

(ii) by inserting “(a) NONSTANDARD CONTRACT CLAUSES.—” before “The Federal Acquisition”; and

(iii) by adding at the end the following new subsection:

**“(b) PROHIBITION ON CERTIFICATION REQUIREMENTS.—**A requirement for a certification by a contractor or offeror may not be included in the Federal Acquisition Regulation or an executive agency procurement regulation unless—

“(1) the certification is specifically imposed by statute; or

“(2) written justification for such certification is provided to the Administrator for Federal Procurement Policy (A) by the Federal Acquisition Regulatory Council (in the case of a certification in the Federal Acquisition Regulation), or (B) the head of an executive agency (in the case of a certification in an executive agency procurement regulation), and the Administrator approves in writing the inclusion of such certification.”.

(B) The item relating to section 29 in the table of contents for the Office of Federal Procurement Policy Act (contained in section 1(b)) (41 U.S.C. 401 note) is amended to read as follows:

“Sec. 29. Contract clauses and certifications.”.

**SEC. 831. AMENDMENT TO COMMENCEMENT AND EXPIRATION OF AUTHORITY TO CONDUCT CERTAIN TESTS OF PROCUREMENT PROCEDURES.**

Subsection (j) of section 5061 of the Federal Acquisition Streamlining Act of 1994 (41 U.S.C. 413 note) is amended to read as follows:

**“(j) COMMENCEMENT AND EXPIRATION OF AUTHORITY.—**The authority to conduct a test under subsection (a) in an agency and to award contracts under such a test shall take effect on August 1, 1995, and shall expire on August 1, 2000. Contracts entered into before such authority expires in an agency pursuant to a test shall

remain in effect, notwithstanding the expiration of the authority to conduct the test under this section.”.

**SEC. 832. PROCUREMENT INTEGRITY.**

(a) AMENDMENT OF PROCUREMENT INTEGRITY PROVISION.—Section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) is amended to read as follows:

**“SEC. 27. RESTRICTIONS ON DISCLOSING AND OBTAINING CONTRACTOR BID OR PROPOSAL INFORMATION OR SOURCE SELECTION INFORMATION.**

“(a) PROHIBITION ON DISCLOSING PROCUREMENT INFORMATION.—(1) A person described in paragraph (2) shall not, other than as provided by law, knowingly and willfully disclose contractor bid or proposal information or source selection information before the award of a Federal agency procurement contract to which the information relates.

“(2) Paragraph (1) applies to any person who—

“(A) is a present or former officer or employee of the United States, or a person who is acting or has acted for or on behalf of, or who is advising or has advised the United States with respect to, a Federal agency procurement; and

“(B) by virtue of that office, employment, or relationship has or had access to contractor bid or proposal information or source selection information.

“(b) PROHIBITION ON OBTAINING PROCUREMENT INFORMATION.—A person shall not, other than as provided by law, knowingly and willfully obtain contractor bid or proposal information or source selection information before the award of a Federal agency procurement contract to which the information relates.

“(c) PROHIBITION ON DISCLOSING OR OBTAINING PROCUREMENT INFORMATION IN CONNECTION WITH A PROTEST.—(1) A person shall not, other than as provided by law, knowingly and willfully violate the terms of a protective order described in paragraph (2) by disclosing or obtaining contractor bid or proposal information or source selection information related to the procurement contract concerned.

“(2) Paragraph (1) applies to any protective order issued by the the United States Board of Contract Appeals in connection with a protest against the award or proposed award of a Federal agency procurement contract.

“(d) PENALTIES AND ADMINISTRATIVE ACTIONS.—

“(1) CRIMINAL PENALTIES.—

“(A) Whoever engages in conduct constituting an offense under subsection (a), (b), or (c) shall be imprisoned for not more than one year or fined as provided under title 18, United States Code, or both.

“(B) Whoever engages in conduct constituting an offense under subsection (a), (b), or (c) for the purpose of either—

“(i) exchanging the information covered by such subsection for anything of value, or

“(ii) obtaining or giving anyone a competitive advantage in the award of a Federal agency procurement contract,

shall be imprisoned for not more than five years or fined as provided under title 18, United States Code, or both.

“(2) CIVIL PENALTIES.—The Attorney General may bring a civil action in the appropriate United States district court against any person who engages in conduct constituting an offense under subsection (a), (b), or (c). Upon proof of such conduct by a preponderance of the evidence, the person is subject to a civil penalty. An individual who engages in such conduct is subject to a civil penalty of not more than \$50,000 for each violation plus twice the amount of compensation which the individual received or offered for the prohibited conduct. An organization that engages in such conduct is subject to a civil penalty of not more than \$500,000 for each violation plus twice the amount of compensation which the organization received or offered for the prohibited conduct.

“(3) ADMINISTRATIVE ACTIONS.—(A) If a Federal agency receives information that a contractor or a person has engaged in conduct constituting an offense under subsection (a), (b), or (c), the Federal agency shall consider taking one or more of the following actions, as appropriate:

“(i) Cancellation of the Federal agency procurement, if a contract has not yet been awarded.

“(ii) Rescission of a contract with respect to which—

“(I) the contractor or someone acting for the contractor has been convicted for an offense under subsection (a), (b), or (c), or

“(II) the head of the agency that awarded the contract has determined, based upon clear and convincing evidence, that the contractor or someone acting for the contractor has engaged in conduct constituting such an offense.

“(iii) Initiation of suspension or debarment proceedings for the protection of the Government in accordance with procedures in the Federal Acquisition Regulation.

“(iv) Initiation of adverse personnel action, pursuant to the procedures in chapter 75 of title 5, United States Code, or other applicable law or regulation.

“(B) If a Federal agency rescinds a contract pursuant to subparagraph (A)(ii), the United States is entitled to recover, in addition to any penalty prescribed by law, the amount expended under the contract.

“(C) For purposes of any suspension or debarment proceedings initiated pursuant to subparagraph (A)(iii), engaging in conduct constituting an offense under subsection (a), (b), or (c) affects the present responsibility of a Government contractor or subcontractor.

“(e) DEFINITIONS.—As used in this section:

“(1) The term ‘contractor bid or proposal information’ means any of the following information submitted to a Federal agency as part of or in connection with a bid or proposal to enter into a Federal agency procurement contract, if that information has not been previously made available to the public or disclosed publicly:

“(A) Cost or pricing data (as defined by section 2306a(h) of title 10, United States Code, with respect to procurements subject to that section, and section 304A(h) of Fed-

eral Property and Administrative Services Act of 1949 (41 U.S.C. 254b(h), with respect to procurements subject to that section).

“(B) Indirect costs and direct labor rates.

“(C) Proprietary information about manufacturing processes, operations, or techniques marked by the contractor in accordance with applicable law or regulation.

“(D) Information marked by the contractor as ‘contractor bid or proposal information’, in accordance with applicable law or regulation.

“(2) The term ‘source selection information’ means any of the following information prepared for use by a Federal agency for the purpose of evaluating a bid or proposal to enter into a Federal agency procurement contract, if that information has not been previously made available to the public or disclosed publicly:

“(A) Bid prices submitted in response to a Federal agency solicitation for sealed bids, or lists of those bid prices before public bid opening.

“(B) Proposed costs or prices submitted in response to a Federal agency solicitation, or lists of those proposed costs or prices.

“(C) Source selection plans.

“(D) Technical evaluation plans.

“(E) Technical evaluations of proposals.

“(F) Cost or price evaluations of proposals.

“(G) Competitive range determinations that identify proposals that have a reasonable chance of being selected for award of a contract.

“(H) Rankings of bids, proposals, or competitors.

“(I) The reports and evaluations of source selection panels, boards, or advisory councils.

“(J) Other information marked as ‘source selection information’ based on a case-by-case determination by the head of the agency, his designee, or the contracting officer that its disclosure would jeopardize the integrity or successful completion of the Federal agency procurement to which the information relates.

“(3) The term ‘Federal agency’ has the meaning provided such term in section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472).

“(4) The term ‘Federal agency procurement’ means the acquisition (by using competitive procedures and awarding a contract) of goods or services (including construction) from non-Federal sources by a Federal agency using appropriated funds.

“(5) The term ‘contracting officer’ means a person who, by appointment in accordance with applicable regulations, has the authority to enter into a Federal agency procurement contract on behalf of the Government and to make determinations and findings with respect to such a contract.

“(6) The term ‘protest’ means a written objection by an interested party to the award or proposed award of a Federal agency procurement contract, pursuant to title IV of the Federal Acquisition Reform Act of 1995.

“(f) LIMITATION ON PROTESTS.—No person may file a protest against the award or proposed award of a Federal agency procurement contract alleging an offense under subsection (a), (b), or (c), of this section, nor may the United States Board of Contract Appeals consider such an allegation in deciding a protest, unless that person reported to the Federal agency responsible for the procurement information that the person believed constituted evidence of the offense no later than 14 days after the person first discovered the possible offense.

“(g) SAVINGS PROVISIONS.—This section does not—

“(1) restrict the disclosure of information to, or its receipt by, any person or class of persons authorized, in accordance with applicable agency regulations or procedures, to receive that information;

“(2) restrict a contractor from disclosing its own bid or proposal information or the recipient from receiving that information;

“(3) restrict the disclosure or receipt of information relating to a Federal agency procurement after it has been canceled by the Federal agency before contract award unless the Federal agency plans to resume the procurement;

“(4) authorize the withholding of information from, nor restrict its receipt by, Congress, a committee or subcommittee of Congress, the Comptroller General, a Federal agency, or an inspector general of a Federal agency;

“(5) authorize the withholding of information from, nor restrict its receipt by, any board of contract appeals of a Federal agency or the Comptroller General in the course of a protest against the award or proposed award of a Federal agency procurement contract; or

“(6) limit the applicability of any requirements, sanctions, contract penalties, and remedies established under any other law or regulation.”.

(b) REPEALS.—The following provisions of law are repealed:

(1) Sections 2397, 2397a, 2397b, and 2397c of title 10, United States Code.

(2) Section 33 of the Federal Energy Administration Act of 1974 (15 U.S.C. 789).

(3) Section 281 of title 18, United States Code.

(4) Subsection (c) of section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428).

(5) The first section 19 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5918).

(c) CLERICAL AMENDMENTS.—

(1) The table of sections at the beginning of chapter 141 of title 10, United States Code, is amended by striking out the items relating to sections 2397, 2397a, 2397b, and 2397c.

(2) The table of sections at the beginning of chapter 15 of title 18, United States Code, is amended by striking out the item relating to section 281.

(3) Section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428) is amended by redesignating subsections (d), (e), (f), and (g) as subsections (c), (d), (e), and (f), respectively.

**SEC. 833. FURTHER ACQUISITION STREAMLINING PROVISIONS.**

(a) PURPOSE OF OFFICE OF FEDERAL PROCUREMENT POLICY.—(1) Section 5(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 404) is amended to read as follows:

“(a) To promote economy, efficiency, and effectiveness in the procurement of property and services by the executive branch of the Federal Government, there shall be an Office of Federal Procurement Policy (hereinafter referred to as the ‘Office’) in the Office of Management and Budget to provide overall direction of Government-wide procurement policies, regulations, procedures, and forms for executive agencies.”.

(2) Sections 2 and 3 of such Act (41 U.S.C. 401 and 402) are repealed.

(b) REPEAL OF REPORT REQUIREMENT.—Section 8 of the Office of Federal Procurement Policy Act (41 U.S.C. 407) is repealed.

(c) REPEAL OF OBSOLETE PROVISIONS.—(1) Sections 10 and 11 of the Office of Federal Procurement Policy Act (41 U.S.C. 409 and 410) are repealed.

(d) CLERICAL AMENDMENTS.—The table of contents for the Office of Federal Procurement Policy Act (contained in section 1(b)) is amended by striking out the items relating to sections 2, 3, 8, 10, and 11.

**SEC. 834. JUSTIFICATION OF MAJOR DEFENSE ACQUISITION PROGRAMS NOT MEETING GOALS.**

Section 2220(b) of title 10, United States Code, is amended by adding at the end the following: “In addition, the Secretary shall include in such annual report a justification for the continuation of any program that—

“(1) is more than 50 percent over the cost goal established for the development, procurement, or operational phase of the program;

“(2) fails to achieve at least 50 percent of the performance capability goals established for the development, procurement, or operational phase of the program; or

“(3) is more than 50 percent behind schedule, as determined in accordance with the schedule goal established for the development, procurement, or operational phase of the program.”.

**SEC. 835. ENHANCED PERFORMANCE INCENTIVES FOR ACQUISITION WORKFORCE.**

(a) ARMED SERVICES ACQUISITIONS.—Subsection (b) of section 5001 of the Federal Acquisition Streamlining Act of 1994 (Public Law 103-355; 108 Stat. 3350; 10 U.S.C. 2220 note) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by designating the second sentence as paragraph (2);

(3) by inserting “(1)” after “(b) ENHANCED SYSTEM OF PERFORMANCE INCENTIVES.—”; and

(4) by adding at the end the following:

“(3) The Secretary shall include in the enhanced system of incentives the following:

“(A) Pay bands.

“(B) Significant and material pay and promotion incentives to be awarded, and significant and material unfavorable personnel actions to be imposed, under the system exclusively, or

primarily, on the basis of the contributions of personnel to the performance of the acquisition program in relation to cost goals, performance goals, and schedule goals.

“(C) Provisions for pay incentives and promotion incentives to be awarded under the system.”.

(b) CIVILIAN AGENCY ACQUISITIONS.—Subsection (c) of section 5051 of the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355; 108 Stat. 3351; 41 U.S.C. 263 note) is amended—

(1) by redesignating subparagraphs (A) and (B) of paragraph (2) as clauses (i) and (ii); respectively;

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(3) by inserting “(1)” after “(c) ENHANCED SYSTEM OF PERFORMANCE INCENTIVES.—”; and

(4) by adding at the end the following:

“(2) The Deputy Director shall include in the enhanced system of incentives under paragraph (1)(B) the following:

“(A) Pay bands.

“(B) Significant and material pay and promotion incentives to be awarded, and significant and material unfavorable personnel actions to be imposed, under the system exclusively, or primarily, on the basis of the contributions of personnel to the performance of the acquisition program in relation to cost goals, performance goals, and schedule goals.

“(C) Provisions for pay incentives and promotion incentives to be awarded under the system.”.

**SEC. 836. RESULTS ORIENTED ACQUISITION PROGRAM CYCLE.**

Section 5002(a) of the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355; 108 Stat. 3350) is amended—

(1) by inserting “(1)” before “to ensure”; and

(2) by striking out the period at the end and inserting in lieu thereof the following: “; (2) to ensure that the regulations compress the time periods associated with developing, procuring, and making operational new systems; and (3) to ensure that Department of Defense directives relating to development and procurement of information systems (numbered in the 8000 series) and the Department of Defense directives numbered in the 5000 series are consolidated into one series of directives that is consistent with such compressed time periods.”.

**SEC. 837. RAPID CONTRACTING GOAL.**

(a) GOAL.—The Office of Federal Procurement Policy Act is amended by adding at the end the following new section:

**“SEC. 35. RAPID CONTRACTING GOAL.**

“The Administrator for Federal Procurement Policy shall establish a goal of reducing by 50 percent the time necessary for executive agencies to acquire an item for the user of that item.”.

(b) CLERICAL AMENDMENT.—The table of contents for such Act, contained in section 1(b), is amended by adding at the end the following new item:

“Sec. 35. Rapid contracting goal.”.



**SEC. 838. ENCOURAGEMENT OF MULTIYEAR CONTRACTING.**

(a) ARMED SERVICES ACQUISITIONS.—Section 2306b(a) of title 10, United States Code, is amended in the matter preceding paragraph (1) by striking out “may” and inserting in lieu thereof “shall, to the maximum extent possible,”.

(b) CIVILIAN AGENCY ACQUISITIONS.—Section 304B(a) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254c(a)) is amended in the matter preceding paragraph (1) by striking out “may” and inserting in lieu thereof “shall, to the maximum extent possible,”.

**SEC. 839. CONTRACTOR SHARE OF GAINS AND LOSSES FROM COST, SCHEDULE, AND PERFORMANCE EXPERIENCE.**

(a) ARMED SERVICES ACQUISITIONS.—(1) Chapter 137 of title 10, United States Code, is amended by inserting after section 2306b the following new section:

**“§ 2306c. Contractor share of gains and losses from cost, schedule, and performance experience**

“The Federal Acquisition Regulation shall contain provisions to ensure that, for any cost-type contract or incentive-type contract, the contractor may be rewarded for contract performance exceeding the contract cost, schedule, or performance parameters to the benefit of the United States and may be penalized for failing to adhere to cost, schedule, or performance parameters to the detriment of the United States.”.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2306b the following new item:

“2306c. Contractor share of gains and losses from cost, schedule, and performance experience.”.

(b) CIVILIAN AGENCY ACQUISITIONS.—(1) Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended by inserting after section 304C the following new section:

**“SEC. 304D. CONTRACTOR SHARE OF GAINS AND LOSSES FROM COST, SCHEDULE, AND PERFORMANCE EXPERIENCE.**

“The Federal Acquisition Regulation shall contain provisions to ensure that, for any cost-type contract or incentive-type contract, the contractor may be rewarded for contract performance exceeding the contract cost, schedule, or performance parameters to the benefit of the United States and may be penalized for failing to adhere to cost, schedule, or performance parameters to the detriment of the United States.”.

(2) The table of contents for such Act, contained in section 1(b), is amended by inserting after the item relating to section 304C the following new item:

“Sec. 304D. Contractor share of gains and losses from cost, schedule, and performance experience.”.

**SEC. 840. PHASE FUNDING OF DEFENSE ACQUISITION PROGRAMS.**

Chapter 131 of title 10, United States Code, is amended by adding at the end the following new section:

**“§ 2221. Funding for results oriented acquisition program cycle**

“Before initial funding is made available for the development, procurement, or operational phase of an acquisition program for which an authorization of appropriations is required by section 114 of this title, the Secretary of Defense shall submit to Congress information about the objectives and plans for the conduct of that phase and the funding requirements for the entire phase. The information shall identify the intended user of the system to be acquired under the program and shall include objective, quantifiable criteria for assessing the extent to which the objectives and goals determined pursuant to section 2435 of this title are achieved.”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“2221. Funding for results oriented acquisition program cycle.”.

**SEC. 841. IMPROVED DEPARTMENT OF DEFENSE CONTRACT PAYMENT PROCEDURES.**

(a) REVIEW AND IMPROVEMENT OF PROCEDURES.—The Comptroller General of the United States shall review commercial practices regarding accounts payable and, considering the results of the review, develop standards for the Secretary of Defense to consider using for improving the contract payment procedures and financial management systems of the Department of Defense.

(b) GAO REPORT.—Not later than September 30, 1996, the Comptroller General shall submit to Congress a report containing the following matters:

(1) The weaknesses in the financial management processes of the Department of Defense.

(2) Deviations of the Department of Defense payment procedures and financial management systems from the standards developed pursuant to subsection (a), expressed quantitatively.

(3) The officials of the Department of Defense who are responsible for resolving the deviations.

**SEC. 842. CONSIDERATION OF PAST PERFORMANCE IN ASSIGNMENT TO ACQUISITION POSITIONS.**

(a) REQUIREMENT.—Section 1701(a) of title 10, United States Code, is amended by adding at the end the following: “The policies and procedures shall provide that education and training in acquisition matters, and past performance of acquisition responsibilities, are major factors in the selection of personnel for assignment to acquisition positions in the Department of Defense.”.

(b) PERFORMANCE REQUIREMENTS FOR ASSIGNMENT.—(1) Section 1723(a) of title 10, United States Code, is amended by inserting “, including requirements relating to demonstrated past performance of acquisition duties,” in the first sentence after “experience requirements”.

(2) Section 1724(a)(2) of such title is amended by inserting before the semicolon at the end the following: “and have demonstrated proficiency in the performance of acquisition duties in the contracting position or positions previously held”.

(3) Section 1735 of such title is amended—

(A) in subsection (b)—

(i) by striking out “and” at the end of paragraph (2);

- (ii) by striking out the period at the end of paragraph (3) and inserting in lieu thereof “; and”; and
- (iii) by adding at the end the following:  
“(4) must have demonstrated proficiency in the performance of acquisition duties.”;
- (B) in subsection (c)—
  - (i) by striking out “and” at the end of paragraph (2);
  - (ii) by striking out the period at the end of paragraph (3) and inserting in lieu thereof “; and”; and
  - (iii) by adding at the end the following:  
“(4) must have demonstrated proficiency in the performance of acquisition duties.”;
- (C) in subsection (d), by inserting before the period at the end the following: “, and have demonstrated proficiency in the performance of acquisition duties”; and
- (D) in subsection (e), by inserting before the period at the end the following: “, and have demonstrated proficiency in the performance of acquisition duties”.

## **Subtitle D—Streamlining of Dispute Resolution**

### **PART I—GENERAL PROVISIONS**

#### **SEC. 850. DEFINITIONS.**

In this subtitle:

- (1) The term “Board” means the United States Board of Contract Appeals.
- (2) The term “Board judge” means a member of the United States Board of Contract Appeals.
- (3) The term “Chairman” means the Chairman of the United States Board of Contract Appeals.
- (4) The term “executive agency” has the meaning given by section 2(2) of the Contract Disputes Act of 1978 (41 U.S.C. 601(2)).
- (5) The term “alternative means of dispute resolution” has the meaning given by section 571(3) of title 5, United States Code.
- (6) The term “protest” means a written objection by an interested party to any of the following:
  - (A) A solicitation or other request by an executive agency for offers for a contract for the procurement of property or services.
  - (B) The cancellation of such a solicitation or other request.
  - (C) An award or proposed award of such a contract.
  - (D) A termination or cancellation of an award of such a contract, if the written objection contains an allegation that the termination or cancellation is based in whole or in part on improprieties concerning the award of the contract.
- (7) The term “interested party”, with respect to a contract or a solicitation or other request for offers, means an actual or

prospective bidder or offeror whose direct economic interest would be affected by the award of the contract or by failure to award the contract.

(8) The term “prevailing party”, with respect to a determination of the Board under section 864(b) that a decision of a contracting officer violates a statute or regulation, means a party that demonstrated such violation.

## **PART II—ESTABLISHMENT OF THE UNITED STATES BOARD OF CONTRACT APPEALS**

### **SEC. 851. ESTABLISHMENT.**

There is established in the executive branch of the Government an independent establishment to be known as the United States Board of Contract Appeals.

### **SEC. 852. MEMBERSHIP.**

(a) APPOINTMENT.—(1) The Board shall consist of Board judges appointed by the Chairman, without regard to political affiliation and solely on the basis of the professional qualifications required to perform the duties and responsibilities of a Board judge, from a register of applicants maintained by the Board.

(2) The members of the Board shall be selected and appointed to serve in the same manner as administrative law judges appointed pursuant to section 3105 of title 5, United States Code, with an additional requirement that such members shall have had not fewer than five years' experience in public contract law.

(3) Notwithstanding paragraph (2) and subject to subsection (b), the following persons shall serve as Board judges:

(A) Any full-time member of an agency board of contract appeals serving as such on the day before the effective date of this subtitle.

(B) Any person serving on the day before the date of the enactment of this Act in a position at a level of assistant general counsel or higher with authority delegated from the Comptroller General to decide bid protests under subchapter V of chapter 35 of title 31, United States Code.

(b) REMOVAL.—Members of the Board shall be subject to removal in the same manner as administrative law judges, as provided in section 7521 of title 5, United States Code.

(c) COMPENSATION.—Compensation for the Chairman and all other members of the Board shall be determined under section 5273a of title 5, United States Code.

### **SEC. 853. CHAIRMAN.**

(a) DESIGNATION.—(1) The Chairman shall be designated by the President to serve for a term of five years. The President shall select the Chairman from among sitting Board judges each of whom has had at least five years of service—

(A) as a member of an agency board of contract appeals; or

(B) in a position at a level of assistant general counsel or higher with authority delegated from the Comptroller General to decide bid protests under subchapter V of chapter 35 of title 31, United States Code (as in effect on the day before the effective date of this subtitle).

(2) A Chairman may continue to serve after the expiration of the Chairman's term until a successor has taken office. A Chairman may be reappointed any number of times.

(b) **RESPONSIBILITIES.**—The Chairman shall be responsible on behalf of the Board for the executive and administrative operation of the Board, including functions of the Board with respect to the following:

(1) The selection, appointment, and fixing of the compensation of such personnel, pursuant to part III of title 5, United States Code, as the Chairman considers necessary or appropriate, including a Clerk of the Board, a General Counsel, and clerical and legal assistance for Board judges.

(2) The supervision of personnel employed by or assigned to the Board, and the distribution of work among such personnel.

(3) The response to any request that may be made by Congress or the Office of Management and Budget.

(4) The allocation of funds among the various functions of the Board.

(5) The entering into and performance of such contracts, leases, cooperative agreements, or other similar transactions with public agencies and private organizations and persons, and the making of such payments, as the Chairman considers necessary or appropriate to carry out functions vested in the Board.

(6) The operation of an Office of the Clerk of the Board, including the receipt of all filings made with the Board, the assignment of cases, and the maintenance of all records of the Board.

(7) The acquisition, operation, and maintenance of such automatic data processing resources as may be needed by the Board.

(8) The prescription of such rules and regulations as the Chairman considers necessary or appropriate for the administration and management of the Board.

(c) **VICE CHAIRMEN.**—The Chairman may designate up to four other Board judges as Vice Chairmen. The Chairman may divide the Board into two or more divisions, and, if such division is made, shall assign a Vice Chairman to head each division. The Vice Chairmen, in the order designated by the Chairman, shall act in the place and stead of the Chairman during the absence of the Chairman.

#### **SEC. 854. RULEMAKING AUTHORITY.**

(a) **IN GENERAL.**—The Board may establish—

(1) such procedural rules and regulations as are necessary to the exercise of its functions, including internal rules for the assignment of cases; and

(2) statements of policy of general applicability with respect to its functions.

(b) **PROHIBITION ON REVIEW BY OTHER AGENCY OR PERSON.**—Rules and regulations established by the Board (including forms which are a part thereof) shall not be subject to review by any other agency or person (including the Administrator of Information and Regulatory Affairs, pursuant to chapter 35 of title 44, United States Code) in advance of publication.

**SEC. 855. LITIGATION AUTHORITY.**

Except as provided in section 518 of title 28, United States Code, relating to litigation before the Supreme Court, attorneys designated by the Chairman may appear for, and represent the Board in, any civil action brought in connection with any function carried out by the Board.

**SEC. 856. SEAL OF BOARD.**

The Chairman shall cause a seal of office to be made for the Board of such design as the Board shall approve. Judicial notice shall be taken of such seal.

**SEC. 857. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated for fiscal year 1997 and each succeeding fiscal year such sums as may be necessary to carry out the provisions of this subtitle and to enable the Board to perform its functions. Funds appropriate pursuant to this section shall remain available until expended.

### **PART III—FUNCTIONS OF UNITED STATES BOARD OF CONTRACT APPEALS**

**SEC. 861. ALTERNATIVE DISPUTE RESOLUTION SERVICES.**

(a) **REQUIREMENT TO PROVIDE SERVICES UPON REQUEST.**—The Board shall provide alternative means of dispute resolution for any disagreement regarding a contract or prospective contract of an executive agency upon the request of all parties to the disagreement.

(b) **PERSONNEL QUALIFIED TO ACT.**—Each Board judge and each attorney employed by the Board shall be considered to be qualified to act for the purpose of conducting alternative means of dispute resolution under this section.

(c) **SERVICES TO BE PROVIDED WITHOUT CHARGE.**—Any services provided by the Board or any Board judge or employee pursuant to this section shall be provided without charge.

(d) **RECUSAL OF CERTAIN PERSONNEL UPON REQUEST.**—In the event that a matter which is presented to the Board for alternative means of dispute resolution, pursuant to this section, later becomes the subject of formal proceedings before the Board, any Board judge or employee who was involved in the alternative means shall, if requested by any party to the formal proceeding, take no part in that proceeding.

**SEC. 862. ALTERNATIVE DISPUTE RESOLUTION OF DISPUTES AND PROTESTS SUBMITTED TO BOARD.**

With reasonable promptness after the submission to the Board of a contract dispute under section 863 or a bid protest under section 864, a Board judge to whom the contract dispute or protest is assigned shall request the parties to meet with a Board judge, or an attorney employed by the Board, for the purpose of attempting to resolve the dispute or protest through alternative means of dispute resolution. Formal proceedings in the appeal shall then be suspended until such time as any party or a Board judge to whom the dispute or protest is assigned determines that alternative means of dispute resolution are not appropriate for resolution of the dispute or protest.

**SEC. 863. CONTRACT DISPUTES.**

The Board shall have jurisdiction as provided by section 8(a) of the Contract Disputes Act of 1978 (41 U.S.C. 601–613).

**SEC. 864. PROTESTS.**

(a) **REVIEW REQUIRED UPON REQUEST.**—Upon request of an interested party in connection with any procurement conducted by any executive agency, the Board shall review, as provided in this section, any decision by a contracting officer alleged to violate a statute or regulation. The authority of the Board to conduct such review shall include the authority to review regulations to determine their consistency with applicable statutes. A decision or order of the Board pursuant to this section shall not be subject to interlocutory appeal or review.

(b) **STANDARD OF REVIEW.**—In deciding a protest, the Board may consider all evidence that is relevant to the decision under protest. It shall accord a presumption of correctness to all facts found and determinations made by the contracting officer whose decision is being protested. The protester may rebut this presumption by showing, by a preponderance of the evidence, that a finding or determination was incorrect. The Board may find that a decision by a contracting officer violates a statute or regulation for any of the reasons stated in section 706(2) of title 5, United States Code.

(c) **DETERMINATION OF WHETHER TO SUSPEND AUTHORITY TO CONDUCT PROCUREMENT IN PROTEST FILED BEFORE CONTRACT AWARD.**—(1) When a protest under this section is filed before the award of a contract in a protested procurement, the Board, at the request of an interested party and within 10 days after the submission of the protest, shall hold a hearing to determine whether the Board should suspend the authority of the executive agency involved (or its head) to conduct such procurement until the Board can decide the protest.

(2) The Board shall suspend the authority of the executive agency (or its head) unless the agency concerned establishes that—

(A) absent action by the Board, contract award is likely to occur within 30 days after the hearing; and

(B) urgent and compelling circumstances which significantly affect interests of the United States will not permit waiting for the decision of the Board.

(3) A suspension under paragraph (2) shall not preclude the executive agency concerned from continuing the procurement process up to but not including award of the contract unless the Board determines such action is not in the best interests of the United States.

(d) **DETERMINATION OF WHETHER TO SUSPEND AUTHORITY TO CONDUCT PROCUREMENT IN PROTEST FILED AFTER CONTRACT AWARD.**—(1) If, with respect to an award of a contract, the Board receives notice of a protest under this section within the period described in paragraph (2), the Board shall, at the request of an interested party, hold a hearing to determine whether the Board should suspend the authority of the executive agency involved (or its head) to conduct such procurement until the Board can decide the protest.

(2) The period referred to in paragraph (1) is the period beginning on the date on which the contract is awarded and ending at the end of the later of—

(A) the tenth day after the date of contract award; or

(B) the fifth day after the debriefing date offered to an unsuccessful offeror for any debriefing that is requested and, when requested, is required.

(3) The Board shall hold the requested hearing within 5 days after the date of the filing of the protest or, in the case of a request for debriefing, within 5 days after the later of the date of the filing of the protest or the date of the debriefing.

(4) The Board shall suspend the procurement authority of the executive agency involved (or its head) to acquire any goods or services under the contract which are not previously delivered and accepted unless such agency establishes that urgent and compelling circumstances which significantly affect interests of the United States will not permit waiting for the decision of the Board.

(e) PROCEDURES.—

(1) PROCEEDINGS AND DISCOVERY.—The Board shall conduct proceedings and allow such discovery as may be required for the expeditious, fair, and reasonable resolution of the protest. The Board shall limit discovery to material which is relevant to the grounds of protest or to such affirmative defenses as the executive agency involved, or any intervenor supporting the agency, may raise.

(2) PRIORITY.—The Board shall give priority to protests filed under this section over contract disputes and alternative dispute services. Except as provided in paragraph (3), the Board shall issue its final decision within 65 days after the date of the filing of the protest, unless the Chairman determines that the specific and unique circumstances of the protest require a longer period, in which case the Board shall issue such decision within the longer period determined by the Chairman. An amendment that adds a new ground of protest should be resolved, to the maximum extent practicable, within the time limits established for resolution of the initial protest.

(3) THRESHOLD.—Any protest in which the anticipated value of the contract award that will result from the protested procurement, as estimated by the executive agency involved, is less than \$1,000,000 shall be considered under simplified rules of procedure. These rules shall provide that discovery in such protests shall be in writing only. Such protests shall be decided by a single Board judge, whose decision shall be final and conclusive and shall not be set aside except in cases of fraud. The Board shall issue its final decision in each such protest within 35 days after the date of the filing of the protest.

(4) CALCULATION OF TIME FOR ADR.—In calculating time for purposes of paragraph (2) or (3) of this subsection, any days during which proceedings are suspended for the purpose of attempting to resolve the protest by alternative means of dispute resolution, up to a maximum of 20 days, shall not be counted.

(5) DISMISSAL OF FRIVOLOUS PROTESTS.—The Board may dismiss a protest that the Board determines is frivolous or which, on its face, does not state a valid basis for protest.



(6) PAYMENT OF COSTS FOR FRIVOLOUS PROTESTS.—(A) If the Board expressly finds that a protest or a portion of a protest is frivolous or does not state on its face a valid basis for protest, the Board shall declare that the protester or other interested party who joins the protest is liable to the United States for payment of the costs described in subparagraph (B) unless—

(i) special circumstances would make such payment unjust; or

(ii) the protester obtains documents or other information after the protest is filed with the Board that establishes that the protest or a portion of the protest is frivolous or does not state on its face a valid basis for protest, and the protester then promptly withdraws the protest or portion of the protest.

(B) The costs referred to in subparagraph (A) are all of the costs incurred by the United States of reviewing the protest, or of reviewing that portion of the protest for which the finding is made, including the fees and other expenses (as defined in section 2412(d)(2)(A) of title 28, United States Code) incurred by the United States in defending the protest.

(f) DECISIONS AND CORRECTIVE ACTIONS ON PROTESTS.—(1) In making a decision on protests filed under this section, the Board shall accord due weight to the goals of economic and efficient procurement, and shall take due account of the rule of prejudicial error.

(2) If the Board determines that a decision of a contracting officer violates a statute or regulation, the Board may order the agency (or its head) to take such corrective action as the Board considers appropriate. Corrective action includes requiring that the Federal agency—

(A) refrain from exercising any of its options under the contract;

(B) recompetes the contract immediately;

(C) issue a new solicitation;

(D) terminate the contract;

(E) award a contract consistent with the requirements of such statute and regulation;

(F) implement any combination of requirements under subparagraphs (A), (B), (C), (D), and (E); or

(G) implement such other actions as the Board determines necessary.

(3) If the Board orders corrective action after the contract award, the affected contract shall be presumed valid as to all goods or services delivered and accepted under the contract before the corrective action was ordered.

(4) Any agreement that provides for the dismissal of a protest and involves a direct or indirect expenditure of appropriated funds shall be submitted to the Board and shall be made a part of the public record (subject to any protective order considered appropriate by the Board) before dismissal of the protest.

(g) AUTHORITY TO DECLARE ENTITLEMENT TO COSTS.—(1)(A) Whenever the Board determines that a decision of a contracting officer violates a statute or regulation, it may, in accordance with

section 1304 of title 31, United States Code, further declare an appropriate prevailing party to be entitled to the costs of—

- (i) filing and pursuing the protest, including reasonable attorneys' fees and consultant and expert witness fees, and
- (ii) bid and proposal preparation.

(B) No party (other than a small business concern (within the meaning of section 3(a) of the Small Business Act)) may be declared entitled under this paragraph to costs for—

- (i) consultants and expert witness fees that exceed the highest rate of compensation for expert witnesses paid by the Federal Government, or
- (ii) attorneys' fees that exceed \$150 per hour unless the Board, on a case by case basis, determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceedings involved, justifies a higher fee.

(2) Payment of amounts due from an agency under paragraph (1) or under the terms of a settlement agreement under subsection (e)(4) shall be made from the appropriation made by section 1304 of title 31, United States Code, for the payment of judgments. The executive agency concerned shall reimburse that appropriation account out of funds available for the procurement.

(h) **APPEALS.**—Except as provided in subsection (e)(3), a final decision of the Board may be appealed as set forth in section 8(d)(1) of the Contract Disputes Act of 1978 by the head of the executive agency concerned and by any interested party, including interested parties who intervene in any protest filed under this section.

(i) **ADDITIONAL RELIEF.**—Nothing contained in this section shall affect the power of the Board to order any additional relief which it is authorized to provide under any statute or regulation.

(j) **NONEXCLUSIVITY OF REMEDIES.**—Nothing contained in this section shall affect the right of any interested party to file a protest with the contracting agency or to file an action in the United States Court of Federal Claims or in a United States district court.

#### **SEC. 865. APPLICABILITY TO CONTRACTS FOR COMMERCIAL ITEMS.**

Notwithstanding section 34 of the Office of Federal Procurement Policy Act (41 U.S.C. 430), the authority conferred on the Board by this subtitle is applicable to contracts for the procurement of commercial items.

## **PART IV—REPEAL OF OTHER STATUTES AUTHORIZING ADMINISTRATIVE PROTESTS**

#### **SEC. 871. REPEALS.**

(a) **GSBCA PROVISIONS.**—Subsection (f) of the Brooks Automatic Data Processing Act (section 111 of the Federal Property and Administrative Services Act of 1949; 40 U.S.C. 759) is repealed.

(b) **GAO PROVISIONS.**—Subchapter V of chapter 35 of title 31, United States Code (31 U.S.C. 3551-3556) is repealed.

## **PART V—TRANSFERS AND TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS**

### **SEC. 881. TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL.**

(a) **TRANSFER.**—The personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions vested by law in the Comptroller General pursuant to subchapter V of chapter 35 of title 31, United States Code, and in the boards of contract appeals established pursuant to section 8 of the Contract Disputes Act of 1978 (41 U.S.C. 607) (as in effect on the day before the effective date of this Act), shall be transferred to the Board for appropriate allocation by the Chairman.

(b) **EFFECT ON PERSONNEL.**—Personnel transferred pursuant to this subtitle shall not be separated or reduced in compensation for one year after such transfer, except for cause.

(c) **REGULATIONS.**—(1) The Board shall prescribe regulations for the release of competing employees in a reduction in force that gives due effect to—

- (A) efficiency or performance ratings;
- (B) military preference; and
- (C) tenure of employment.

(2) In prescribing the regulations, the Board shall provide for military preference in the same manner as set forth in subchapter I of chapter 35 of title 5, United States Code.

### **SEC. 882. TERMINATIONS AND SAVINGS PROVISIONS.**

(a) **TERMINATION OF BOARDS OF CONTRACT APPEALS.**—On the effective date of this subtitle, the boards of contract appeals established pursuant to section 8 of the Contract Disputes Act of 1978 (41 U.S.C. 607) (as in effect on the day before the effective date of this Act) shall terminate.

(b) **SAVINGS PROVISION FOR CONTRACT DISPUTE MATTERS PENDING BEFORE BOARDS.**—The provisions of this subtitle shall not affect any proceedings (other than bid protests pending before the board of contract appeals of the General Services Administration) pending on the effective date of this Act before any board of contract appeals described in subsection (a). Such proceedings shall be continued by the Board, and orders which were issued in any such proceeding by any board of contract appeals shall continue in effect until modified, terminated, superseded, or revoked by the Board, by a court of competent jurisdiction, or by operation of law.

(c) **BID PROTEST TRANSITION PROVISIONS.**—(1) No protest may be submitted to the Comptroller General pursuant to section 3553(a) of title 31, United States Code, or to the board of contract appeals for the General Services Administration pursuant to the Brooks Automatic Data Processing Act (40 U.S.C. 759) on or after the effective date of this Act.

(2) The provisions repealed by section 871 shall continue to apply to proceedings pending on the effective date of this subtitle before the board of contract appeals of the General Services Administra-

tion and the Comptroller General pursuant to those provisions, until the board or the Comptroller General determines such proceedings have been completed.

**SEC. 883. CONTRACT DISPUTE AUTHORITY OF BOARD.**

(a) Section 2 of the Contract Disputes Act of 1978 (41 U.S.C. 601) is amended by striking out paragraph (6) and inserting in lieu thereof the following:

“(6) the term ‘Board’ means the United States Board of Contract Appeals; and”.

(b) Section 6(c) of the Contract Disputes Act of 1978 (41 U.S.C. 605(c)) is amended—

(1) in paragraph (4)—

(A) by striking out “the agency board of contract appeals” and inserting in lieu thereof “the United States Board of Contract Appeals”; and

(B) by striking out “the board” and inserting in lieu thereof “the Board”; and

(2) in paragraph (6)—

(A) by striking out “an agency board of contract appeals” and inserting in lieu thereof “the United States Board of Contract Appeals”; and

(B) by striking out “agency board” and inserting in lieu thereof “the Board”.

(c) Section 7 of the Contract Disputes Act of 1978 (41 U.S.C. 606) is amended by striking out “an agency board of contract appeals” and inserting in lieu thereof “the United States Board of Contract Appeals”.

(d) Section 8 of the Contract Disputes Act of 1978 (41 U.S.C. 607) is amended—

(1) by amending the heading to read as follows:

“UNITED STATES BOARD OF CONTRACT APPEALS”;

(2) by striking out subsections (a), (b), and (c);

(3) in subsection (d)—

(A) by striking out the first sentence and inserting in lieu thereof the following:

“The United States Board of Contract Appeals shall have jurisdiction to decide any appeal from a decision of a contracting officer of any executive agency relative to a contract made by that agency.”; and

(B) in the second sentence, by striking out “the agency board” and inserting in lieu thereof “the Board”;

(4) in subsection (e), by striking out “An agency board” and inserting in lieu thereof “The United States Board of Contract Appeals”;

(5) in subsection (f), by striking out “each agency board” and inserting in lieu thereof “the United States Board of Contract Appeals”;

(6) in subsection (g)—

(A) in the first sentence of paragraph (1), by striking out “an agency board of contract appeals” and inserting in lieu thereof “the United States Board of Contract Appeals”;

(B) by striking out paragraph (2); and

- (C) by redesignating paragraph (3) as paragraph (2);
  - (7) by striking out subsections (h) and (i); and
  - (8) by redesignating subsections (d), (e), (f), and (g) (as amended) as subsections (a), (b), (c), and (d), respectively.
- (e) Section 9 of the Contract Disputes Act of 1978 (41 U.S.C. 608) is amended—
- (1) in subsection (a), by striking out “each agency board” and inserting in lieu thereof “the United States Board of Contract Appeals”; and
  - (2) in subsection (b), by striking out “the agency board” and inserting in lieu thereof “the Board”.
- (f) Section 10 of the Contract Disputes Act of 1978 (41 U.S.C. 609) is amended—
- (1) in subsection (a)—
    - (A) in the first sentence of paragraph (1)—
      - (i) by striking out “Except as provided in paragraph (2), and in” and inserting in lieu thereof “In”; and
      - (ii) by striking out “an agency board” and inserting in lieu thereof “the United States Board of Contract Appeals”;
    - (B) by striking out paragraph (2); and
    - (C) by redesignating paragraph (3) as paragraph (2), and in that paragraph, by striking out “or (2)”;
  - (2) in subsection (b), by striking out “any agency board” and “the agency board” and inserting in lieu of each “the Board”;
  - (3) in subsection (c), by striking out “an agency board” and “the agency board” and inserting in lieu of each “the Board”;
  - and
  - (4) in subsection (d), by striking out “one or more agency boards” and “or among the agency boards involved” and inserting in lieu of each “the Board”.
- (g) Section 11 of the Contract Disputes Act of 1978 (41 U.S.C. 610) is amended—
- (1) in the first sentence, by striking out “an agency board of contract appeals” and inserting in lieu thereof “the United States Board of Contract Appeals”; and
  - (2) in the second sentence, by striking out “the agency board through the Attorney General; or upon application by the board of contract appeals of the Tennessee Valley Authority” and inserting in lieu thereof “the Board”.
- (h) Section 13 of the Contract Disputes Act of 1978 (41 U.S.C. 612) is amended—
- (1) in subsection (b), by striking out “an agency board of contract appeals” and inserting in lieu thereof “the United States Board of Contract Appeals”; and
  - (2) in subsection (d)(2), by striking out “by the board of contract appeals for” and inserting in lieu thereof “by the Board from”.

**SEC. 884. REFERENCES TO AGENCY BOARDS OF CONTRACT APPEALS.**

Any reference to an agency board of contract appeals in any provision of law or in any rule, regulation, or other paper of the United States shall be treated as referring to the United States Board of Contract Appeals.

**SEC. 885. CONFORMING AMENDMENTS.**

(a) TITLE 5.—Section 5372a of title 5, United States Code, is amended—

(1) in subsection (a)(1), by striking out “an agency board of contract appeals appointed under section 8 of the Contract Disputes Act of 1978” and inserting in lieu thereof “the United States Board of Contract Appeals”;

(2) in subsection (a)(2), by striking out “an agency board of contract appeals established pursuant to section 8 of the Contract Disputes Act of 1978” and inserting in lieu thereof “the United States Board of Contract Appeals”; and

(3) in subsection (b), by striking out “an appeals board” each place it appears and inserting in lieu thereof “the appeals board”.

(b) TITLE 10.—(1) Section 2305(e) of title 10, United States Code, is amended—

(A) in paragraph (1), by striking out “subchapter V of chapter 35 of title 31” and inserting in lieu thereof “title IV of the Federal Acquisition Reform Act of 1995”; and

(B) by striking out paragraph (3).

(2) Section 2305(f) of such title is amended—

(A) in paragraph (1), by striking out “in subparagraphs (A) through (F) of subsection (b)(1) of section 3554 of title 31” and inserting in lieu thereof “section 424(f)(2) of the Federal Acquisition Reform Act of 1995”; and

(B) in paragraph (2), by striking out “paragraph (1) of section 3554(c) of title 31” and inserting in lieu thereof “section 424(g)(1)(A) of the Federal Acquisition Reform Act of 1995”.

(c) FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.—(1) Section 303B(h) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b(h)) is amended—

(A) in paragraph (1), by striking out “subchapter V of chapter 35 of title 31” and inserting in lieu thereof “title IV of the Federal Acquisition Reform Act of 1995”; and

(B) by striking out paragraph (3).

(2) Section 303B(i) of such Act (41 U.S.C. 253b(i)) is amended—

(A) in paragraph (1), by striking out “in subparagraphs (A) through (F) of subsection (b)(1) of section 3554 of title 31” and inserting in lieu thereof “section 424(f)(2) of the Federal Acquisition Reform Act of 1995”; and

(B) in paragraph (2), by striking out “paragraph (1) of section 3554(c) of title 31” and inserting in lieu thereof “section 424(g)(1)(A) of the Federal Acquisition Reform Act of 1995”.

## **PART VI—EFFECTIVE DATE; INTERIM APPOINTMENT AND RULES**

**SEC. 891. EFFECTIVE DATE.**

This subtitle shall take effect on October 1, 1996.

**SEC. 892. INTERIM APPOINTMENT.**

The Board judge serving as chairman of the board of contract appeals of the General Services Administration on the date of the enactment of this Act shall serve as Chairman during the two-year

period beginning on the effective date of this subtitle, unless such individual resigns such position or the position otherwise becomes vacant before the expiration of such period. The authority vested in the President by section 853 shall take effect upon the expiration of such two-year period or on the date such position is vacated, whichever occurs earlier.

**SEC. 893. INTERIM RULES.**

(a) **RULES OF PROCEDURE.**—Until such date as the Board promulgates rules of procedure, the rules of procedure of the board of contract appeals of the General Services Administration, as in effect on the effective date of this Act, shall be the rules of procedure of the Board.

(b) **RULES REGARDING BOARD JUDGES.**—Until such date as the Board promulgates rules governing the establishment and maintenance of a register of eligible applicants and the selection of Board judges, the rules of the Armed Services Board of Contract Appeals governing the establishment and maintenance of a register of eligible applicants and the selection of board members shall be the rules of the Board governing the establishment and maintenance of a register of eligible applicants and the selection of Board judges, except that any provisions of the rules of the Armed Services Board of Contract Appeals that authorize any individual other than the chairman of such board to select a Board judge shall have no effect.

## **Subtitle E—Effective Dates and Implementation**

**SEC. 895. EFFECTIVE DATE AND APPLICABILITY.**

(a) **EFFECTIVE DATE.**—Except as otherwise provided in this title, this title and the amendments made by this title shall take effect on the date of the enactment of this Act.

(b) **APPLICABILITY OF AMENDMENTS.**—(1) An amendment made by this title shall apply, in the manner prescribed in the final regulations promulgated pursuant to section 896 to implement such amendment, with respect to any solicitation that is issued, any unsolicited proposal that is received, and any contract entered into pursuant to such a solicitation or proposal, on or after the date described in paragraph (3).

(2) An amendment made by this title shall also apply, to the extent and in the manner prescribed in the final regulations promulgated pursuant to section 896 to implement such amendment, with respect to any matter related to—

(A) a contract that is in effect on the date described in paragraph (3);

(B) an offer under consideration on the date described in paragraph (3); or

(C) any other proceeding or action that is ongoing on the date described in paragraph (3).

(3) The date referred to in paragraphs (1) and (2) is the date specified in such final regulations. The date so specified shall be October 1, 1996, or any earlier date that is not within 30 days after the date on which such final regulations are published.

**SEC. 896. IMPLEMENTING REGULATIONS.**

(a) **PROPOSED REVISIONS.**—Proposed revisions to the Federal Acquisition Regulation and such other proposed regulations (or revisions to existing regulations) as may be necessary to implement this title shall be published in the Federal Register not later than 210 days after the date of the enactment of this Act.

(b) **PUBLIC COMMENT.**—The proposed regulations described in subsection (a) shall be made available for public comment for a period of not less than 60 days.

(c) **FINAL REGULATIONS.**—Final regulations shall be published in the Federal Register not later than 330 days after the date of enactment of this Act.

(d) **MODIFICATIONS.**—Final regulations promulgated pursuant to this section to implement an amendment made by this title may provide for modification of an existing contract without consideration upon the request of the contractor.

(e) **SAVINGS PROVISIONS.**—(1) Nothing in this title shall be construed to affect the validity of any action taken or any contract entered into before the date specified in the regulations pursuant to section 895(b)(3) except to the extent and in the manner prescribed in such regulations.

(2) Except as specifically provided in this title, nothing in this title shall be construed to require the renegotiation or modification of contracts in existence on the date of the enactment of this Act.

(3) Except as otherwise provided in this title, a law amended by this title shall continue to be applied according to the provisions thereof as such law was in effect on the day before the date of the enactment of this Act until—

(A) the date specified in final regulations implementing the amendment of that law (as promulgated pursuant to this section); or

(B) if no such date is specified in regulations, October 1, 1996.

- 
2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE COLLINS OF ILLINOIS OR A DESIGNEE OFFERED TO THE AMENDMENT OF REPRESENTATIVE CLINGER OF PENNSYLVANIA, CONSISTING OF AN AMENDMENT PRINTED IN THE CONGRESSIONAL RECORD NOT LATER THAN JUNE 13, 1995, DEBATABLE FOR 40 MINUTES

---

**Subpart D: Ballistic Missile Defense**

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE SPRATT OF SOUTH CAROLINA OR A DESIGNEE, DEBATABLE FOR 20 MINUTES

Strike out section 232 (page 31, line 17 through page 32, line 4), and insert in lieu thereof the following new section.

**SEC. 232. BALLISTIC MISSILE DEFENSE POLICY OF THE UNITED STATES.**

It is the policy of the United States—

- (1) to deploy at the earliest practical date highly effective theater missile defenses (TMD) to protect forward-deployed and expeditionary elements of the Armed Forces of the United



States and to complement the missile defense capabilities of our allies and forces friendly to the United States; and

(2) to develop, test, and deploy, at the earliest practical dates, a national missile defense system (NMD) that complies with the ABM Treaty and is capable of providing a highly effective defense of the United States against limited ballistic missile attacks.

Page 32, strike out line 17 and all that follows through line 5 on page 33 and insert in lieu thereof the following:

(1) Up to 100 ground-based interceptors at the site now designated by the ABM Treaty or additional ground-based interceptors at such other site or sites as the Secretary of Defense may recommend if deployment of ground-based interceptors at more than one site is allowed by amendment to the ABM Treaty.

(2) Fixed, ground-based radars.

(3) Space-based sensors that are capable of acquiring and tracking incoming reentry vehicles as an adjunct to ground-based radars.

(4) Battle management, communication, and control systems integrated with ground-based radars and space-based sensors.

Page 38, line 5, strike out "**DEFINED**".

Page 38, line 6, insert "(a) DEFINITION.—" before "For purposes of".

Page 38, at the end of line 11, strike out the period and insert the following:

and all Agreed Statements and amendments to such Treaty in effect as of the date of the enactment of this Act or made after such date.

Page 38, after line 11, insert the following:

(b) INTERPRETATION.—Nothing in this subtitle shall be interpreted to violate, or to authorize the violation by the United States of, the ABM Treaty. Any provision of this subtitle that authorizes or requires the United States to deviate from the ABM Treaty is premised on the assumption that before any such action is taken amendments will be made to the Treaty to make such provision compliant with the Treaty.

---

## 2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE DELLUMS OF CALIFORNIA OR A DESIGNEE, DEBATABLE FOR 20 MINUTES

Page 38, line 18, insert "(a) IN GENERAL.—" before "Of the amounts"

Page 38, line strike \$3,070,199,000 and insert \$2,442,199,000.

Page 38, after line 22, insert the following:

(b) REDUCTION.—The amounts provided in subsection (a) and in section 201(4) are each hereby reduced by \$628,000,000

(d) NATURAL MISSILE DEFENSE AMOUNT.—Of the amount provide in subsection (a) (as reduced by subsection (b)), \$371,000,000 is for the National Missile Defense program.

At the end of title IV (page 161, after line 3), insert the following new section:

**SEC. 483. ADDITIONAL MILITARY PERSONNEL AUTHORIZATION.**

There is hereby authorized to be appropriated to the Department of Defense for fiscal year 1996 for military personnel the sum of \$628,000,000. Of the amount appropriated pursuant to such authorization—

(1) \$150,000,000 (or the full amount appropriated, whichever is less) shall be for increased payments for the Variable Housing Allowance program under section 403a of title 37, United States Code, by reason of the amendments made by section 604; and

(2) any remaining amount shall be allocated, in such manner as the Secretary of Defense prescribes, for payments for the Variable Housing Allowance and the Basic Allowance for Quarters in such a manner as to minimize the need for enlisted personnel to apply for food stamps.

Page 280, beginning on line 19, strike out “beginning after June 30, 1996” and inserting in lieu thereof “after September 1995”.

Subpart E: Burdensharing

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE SHAYS OF CONNECTICUT OR REPRESENTATIVE FRANK OF MASSACHUSETTS OR A DESIGNEE, DEBATABLE FOR 40 MINUTES

At the end of title XII (page 409, after line 18), insert the following new section:

**SEC. 1228. REDUCTION OF UNITED STATES MILITARY FORCES IN EUROPE.**

(a) **END STRENGTH REDUCTIONS FOR MILITARY PERSONNEL IN EUROPE.**—Notwithstanding section 1002(c)(1) of the National Defense Authorization Act, 1985 (22 U.S.C. 1928 note), but subject to subsection (d), for each of fiscal years 1996, 1997, 1998, and 1999, the Secretary of Defense shall reduce the end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of the North Atlantic Treaty Organization (NATO) in accordance with subsection (b).

(b) **REDUCTION FORMULA.**—

(1) **APPLICATION OF FORMULA.**—For each percentage point by which, as of the end of a fiscal year, the allied contribution level determined under paragraph (2) is less than the allied contribution goal specified in subsection (c), the Secretary of Defense shall reduce the end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO by 1,000 for the next fiscal year. The reduction shall be made from the end strength level in effect, pursuant to section 1002(c)(1) of the National Defense Authorization Act, 1985 (22 U.S.C. 1928 note), and subsection (a) of this section (if applicable), for the fiscal year in which the allied contribution level is less than the goal specified in subsection (c).

(2) **DETERMINATION OF ALLIED CONTRIBUTION LEVEL.**—To determine the allied contribution level with respect to a fiscal year, the Secretary of Defense shall calculate the aggregate

amount of nonpersonnel costs for United States military installations in European member nations of NATO that are assumed during that fiscal year by such nations, except that the Secretary may consider only those cash and in-kind contributions by such nations that replace expenditures that would otherwise be made by the Secretary using funds appropriated or otherwise made available in defense appropriations Acts.

(c) ANNUAL ALLIED CONTRIBUTION GOALS.—

(1) GOALS.—In continuing efforts to enter into revised host-nation agreements as described in the provisions of law specified in paragraph (2), the President is urged to seek to have European member nations of NATO assume an increased share of the nonpersonnel costs of United States military installations in those nations in accordance with the following timetable:

(A) By September 30, 1996, 18.75 percent of such costs should be assumed by those nations.

(B) By September 30, 1997, 37.5 percent of such costs should be assumed by those nations.

(C) By September 30, 1998, 56.25 percent of such costs should be assumed by those nations.

(D) By September 30, 1999, 75 percent of such costs should be assumed by those nations.

(2) SPECIFIED LAWS.—The provisions of law referred to in paragraph (1) are—

(A) section 1301(e) of National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2545);

(B) section 1401(c) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1824); and

(C) section 1304 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 108 Stat. 2890),

(d) EXCEPTIONS.—

(1) MINIMUM END STRENGTH AUTHORITY.—Notwithstanding reductions required pursuant to subsection (a), the Secretary of Defense may maintain an end strength of at least 25,000 members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO.

(2) WAIVER AUTHORITY.—The President may waive operation of this section if the President declares an emergency. The President shall immediately inform Congress of any such waiver and the reasons for the waiver.

(e) ALLOCATION OF FORCE REDUCTIONS.—To the extent that there is a reduction in end strength level for any of the Armed Forces in European member nations of NATO in a fiscal year pursuant to subsection (a)—

(1) half of the reduction shall be used to make a corresponding reduction in the authorized end strength level for active duty personnel for such Armed Force for that fiscal year; and

(2) half of the reduction shall be used to make a corresponding increase in permanent assignments or deployments of forces in the United States or other nations (other than Euro-

pean member nations of NATO) for each such Armed Force for that fiscal year, as determined by the Secretary of Defense.

(f) NONPERSONNEL COSTS DEFINED.—For purposes of this section, the term “nonpersonnel costs”, with respect to United States military installations in European member nations of NATO, means costs for those installations other than costs paid from military personnel accounts.

---

#### Subpart F: Tritium

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MARKEY OF MASSACHUSETTS OR A DESIGNEE, DEBATABLE FOR 40 MINUTES

In section 3133:

Page 528, line 17, strike out “Funds” and all that follows through page 529, line 9, and insert in lieu thereof the following:

(1) Of the amounts authorized to be appropriated in section 3101(b), not more than \$50,000,000 shall be available for a project to provide a long-term source of tritium, subject to paragraph (2).

(2) The amount made available under paragraph (1) may not be used until such time as the Secretary of Energy has completed a record of decision on a tritium production program and congressional hearings have been conducted to determine the appropriate option, in light of the national security needs and nonproliferation and environmental consequences, for establishing a long-term source of tritium.

Page 530, strike out lines 1 through 9.

---

#### Subpart G: Abortion

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE DeLAURO OF CONNECTICUT OR A DESIGNEE, DEBATABLE FOR 40 MINUTES

Page 311, strike out lines 1 through 13, relating to section 732 (expansion of existing limitations on the use of defense funds for the performance of abortions).

---

### PART 2

(Amendments debatable for 10-minutes each. Amendments may be included in Chairman’s amendments en bloc, debatable for 20 minutes.)

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE SCHROEDER OF COLORADO OR A DESIGNEE

Page 175, before line 17, insert the following new subsection:

(c) CONTINGENT IMPLEMENTATION BASED UPON COST-BENEFIT ANALYSIS.—The amendments made by subsection (a) shall take effect at the end of the 90-day period beginning on the date of the enactment of this Act, except that such amendments shall not take effect if the cost benefit analysis under subsection (d), as certified by the Secretary of Defense under that subsection, demonstrates

that the benefits of implementation of such amendments exceed the costs to the Department of Defense of such implementation.

(d) **COST-BENEFIT ANALYSIS.**—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the anticipated costs, and the anticipated benefits, to the Department of Defense of implementation of the amendments made by subsection (a). In carrying out the analysis required for preparation of such report, the Secretary shall determine whether the benefits to the Department of Defense of implementing those amendments exceed the costs to the Department of Defense of such implementation. If the Secretary determines that such benefits exceed such costs, the Secretary shall certify that determination in the report.

---

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE HOKE OF COLORADO OR A DESIGNEE

At the end of title XII (page 409, after line 18), insert the following new section:

**SEC. 1228. SENSE OF CONGRESS CONCERNING UNILATERAL IMPLEMENTATION OF START II TREATY.**

(a) **FINDINGS.**—Congress finds that—

- (1) the START II Treaty has not entered into force; and
- (2) the United States is nevertheless taking unilateral steps to implement the reductions in strategic forces called for by that treaty.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress that the Secretary of Defense should not implement any reduction in strategic forces that is called for in the START II Treaty unless and until that treaty enters into force.

(c) **DEFINITIONS.**—For purposes of this section, the term “START II Treaty” means the Treaty between the United States of America and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms.

---

3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE BERMAN OF CALIFORNIA OR A DESIGNEE

Strike out section 1224 (page 398, line 22 through page 402, line 22).

---

4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MONTGOMERY OF MISSISSIPPI OR A DESIGNEE

Page 216, strike lines 16 through 18.

Page 217, after line 6 insert the following:

(d) **ONE-YEAR EXTENSION OF NATIONAL GUARD CIVILIAN YOUTH OPPORTUNITIES PILOT PROGRAM.**—Section 1091(a) of the National Defense Authorization Act for Fiscal Year 1993 is amended by striking out “During fiscal years 1993 through 1995” and inserting in lieu thereof “During fiscal years 1993 through 1996”.

(e) **REPORT ON ALTERNATIVE FUNDING SOURCES.**—Not later than six months after the date of the enactment of this Act, the Sec-

retary of Defense, acting through the Chief of the National Guard Bureau, shall submit to Congress a report describing what funding sources, if any, are available (from other Federal agencies or from the private sector) to carry out the National Guard Civilian Youth Opportunities Pilot Program under the section other than through the use of funds appropriated to the Department of Defense.

---

5. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE BUYER OF INDIANA OR A DESIGNEE

At the end of title V (page 274, after line 11), insert the following new section:

**SEC. 566. LIMITATION ON CIVIL-MILITARY PROGRAMS.**

(a) **LIMITATION.**—The Secretary of Defense may not obligate funds available to the Department of Defense for any fiscal year for participation during that fiscal year in a program specified in subsection (b) unless the Secretary has submitted to Congress a certification with respect to that fiscal year that—

(1) funds are otherwise available for that fiscal year for all requirements for personnel and equipment for units of the Selected Reserve that are designated for early deployment;

(2) funds are otherwise available for that fiscal year for all requirements for individual training and professional development education for members of the reserve components; and

(3) the obligation of funds that the Secretary proposes to make for such fiscal year for participation in such programs is a higher priority than making such funds available for reserve component readiness (exclusive of such programs).

(b) **COVERED PROGRAMS.**—Subsection (a) applies with respect to the programs authorized in section 410 of title 10, United States Code, and sections 1045, 1091, and 1093 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484).

---

6. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MICA OF FLORIDA OR A DESIGNEE

At the end of subtitle C of title I (page 20, after line 25), insert the following new section:

**SEC. 134. SONOBUOY PROGRAMS.**

Of the amount provided in section 102(a)(4)—

(1) none of such amount shall be available for the AN/SSQ–53 (DIFAR) program; and

(2) \$8,902,000 shall be available for the AN/SSQ–110 (EER) program.

---

7. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE HANSEN OF UTAH OR A DESIGNEE

At the end of subtitle E of title I (page 22, after line 14), insert the following new section:

**SEC. 153. ASSISTANCE FOR CHEMICAL WEAPONS STOCKPILE COMMUNITIES AFFECTED BY BASE CLOSURE.**

The Secretary of Defense shall review and evaluate issues associated with closure of Department of Defense facilities co-located with continuing chemical stockpile and chemical demilitarization operations. The review shall include analysis of the economic impacts on these communities and the unique reuse problems facing local communities associated with ongoing chemical weapons programs. The review should also include recommendations from the Secretary on methods for expeditious and cost-effective transfer of these facilities to local communities for base reuse or privatization. The Secretary shall submit to Congress a report on the review and evaluation not later than 30 days after the date of the enactment of this Act.

---

**8. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE BATEMAN OF VIRGINIA OR A DESIGNEE**

At the end of subtitle B of title II (page 31, after line 11), insert the following new section:

**SEC. 217. DEVELOPMENT OF LASER PROGRAM.**

(a) **LASER PROGRAM.**—The amount authorized for appropriation by section 201 is hereby increased by \$9,000,000, to be used for the development by the Naval High Energy Laser Office of a continuous wave, superconducting radio frequency free electron laser program.

(b) **OFFSET.**—The amount authorized by section 201 is hereby reduced by \$9,000,000, of which—

(1) \$7,000,000 shall be derived from amounts authorized for experimental evaluation of major innovative technologies (PE 63226E); and

(2) \$2,000,000 shall be derived from amounts authorized for the space test program (PE 63402F).

---

**9. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE HARMAN OF CALIFORNIA OR A DESIGNEE**

In section 257(e):

Page 54, line 9, strike out “(that” and insert in lieu thereof “and other entities that”.

Page 54, line 10, strike out the closing parenthesis after “centers”.

Page 55, line 1, insert after “section 201” the following: “for federally funded research and development centers, university-affiliated research centers, and other entities that operate like federally funded research and development centers”.

---

**10. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE HANSEN OF UTAH OR A DESIGNEE**

At the end of title II (page 61, after line 2), insert the following new section:

**SEC. 263. FIBER OPTIC ACOUSTIC SENSOR SYSTEM.**

(a) FIBER OPTIC ACOUSTIC SENSOR SYSTEM.—Of the amount appropriated pursuant to the authorization in section 201, \$28,181,000 shall be available for fiscal year 1996 for the advanced submarine combat systems development program (PE 63504N). Of that amount, \$6,900,000 shall be available for research and development of a fiber optic acoustic sensor system, including the development of common optical towed arrays.

(b) OFFSET.—The amount authorized in section 201 for the advanced submarine system development program (PE 63561N) is hereby reduced by \$6,900,000.

---

11. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE HANSEN OF UTAH OR A DESIGNEE

At the end of title II (page 61, after line 2), insert the following new sections:

**SEC. 263. DEMILITARIZATION OF CONVENTIONAL MUNITIONS, ROCKETS, AND EXPLOSIVES.**

Of the amount appropriated pursuant to the authorization in section 201 for the joint Department of Defense-Department of Energy munitions technology development program (PE 63225D), \$15,000,000 shall be available for cooperative development and demonstration of processes that comply with applicable environmental laws for the demilitarization and disposal of unserviceable, obsolete, or nontreaty compliant munitions, rocket motors, and explosives. In carrying out such development and demonstration, the Secretary of Defense and the Secretary of Energy should consider a number of potential technologies, including super-critical water oxidation, molten metal pyrolysis, plasma arc, catalytic fluidized-bed oxidation, molten salt oxidation, incineration, critical fluid extraction and ingredient recovery, and underground contained burning.

---

12. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CUNNINGHAM OF CALIFORNIA OR A DESIGNEE

At the end of title II (page 61, after line 2), insert the following new section:

**SEC. 263. JOINT TARGETING SUPPORT SYSTEM TESTBED.**

(a) JOINT TARGETING SUPPORT SYSTEM TESTBED.—The amount authorized in section 201(2) for theater mission planning (project A1784) is hereby increased by \$10,000,000, to be used to establish a joint targeting support system testbed (in PE 0204229N).

(b) OFFSET.—The amount authorized in section 201(2) for the Tomahawk (project A0545) is hereby reduced by \$10,000,000.

---

13. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE BATEMAN OF VIRGINIA OR A DESIGNEE

Page 80, strike out line 21 and all that follows through line 17 on page 81, relating to section 335 of the bill (termination of over-



seas living quarters allowances for nonappropriated fund instrumentality employees), and insert the following new section:

**SEC. 335. LIMITATION ON PROVISION OF OVERSEAS LIVING QUARTERS ALLOWANCES FOR NONAPPROPRIATED FUND INSTRUMENTALITY EMPLOYEES.**

(a) **CONFORMING ALLOWANCE TO ALLOWANCES FOR OTHER CIVILIAN EMPLOYEES.**—Subject to subsection (b), any overseas living quarters allowance paid from nonappropriated funds and provided to a nonappropriated fund instrumentality employee after the date of the enactment of this Act may not exceed the amount of a quarters allowance provided under subchapter III of chapter 59 of title 5 to a similarly situated civilian employee of the Department of Defense paid from appropriated funds.

(b) **APPLICATION TO CERTAIN CURRENT EMPLOYEES.**—In the case of a nonappropriated fund instrumentality employee who, as of the date of the enactment of this Act, receives an overseas living quarters allowance under any other authority, subsection (a) shall apply to such employee only after the earlier of—

(1) September 30, 1998; or

(2) the date on which the employee otherwise ceases to be eligible for such an allowance under such other authority.

(c) **NONAPPROPRIATED FUND INSTRUMENTALITY EMPLOYEE DEFINED.**—For purposes of this section, the term “nonappropriated fund instrumentality employee” has the meaning given such term in section 1587(a)(1) of title 10, United States Code.

---

**14. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE DUNN OF WASHINGTON OR A DESIGNEE**

Page 98, strike out lines 3 through 8, relating to section 359 of the bill (increase in commercial procurement of printing and duplication services), and insert the following new section:

**SEC. 359. COMMERCIAL PROCUREMENT OF PRINTING AND DUPLICATION SERVICES.**

Consistent with the requirements of title 44, United States Code, during fiscal year 1996, the Defense Printing Service Code, during fiscal year 1996, the Defense Printing Service shall competitively procure up to 70 percent of its printing and duplication services.

---

**15. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE SMITH OF MICHIGAN OR A DESIGNEE**

On page 101, strike section 361 and insert the following new section:

**SEC. 361. OPERATIONS OF DEFENSE REUTILIZATION AND MARKETING SERVICE.**

The Secretary of Defense shall proceed with selective privatization of the operations of the unit of the Defense Logistics Agency known as the Defense Reutilization and Marketing Service in accordance with the objectives of the National Performance Review and shall report to Congress by July 1, 1996, the status of the privatization efforts.

16. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE DUNCAN  
OF TENNESSEE OR A DESIGNEE

Strike out section 367 (page 107, line 16, through page 108, line 2) and insert in lieu thereof the following:

**SEC. 367. INCREASED RELIANCE ON THE PRIVATE SECTOR.**

(a) **GENERAL RULE.**—The Secretary of Defense shall endeavor to carry out through an entity in the private sector any activity to provide a commercial product or service for the Department of Defense if—

(1) the product or serve can be provided through a source in the private sector; and

(2) an adequate competitive environment exists to provide for economical accomplishment of the function by the private sector.

(b) **APPLICABILITY.**—(1) Subsection (a) shall not be construed to apply to any commercial product or service with respect to which the Secretary of Defense determines that—

(A) production, manufacture, or provision of that product or service by the Government is necessary for reasons of national security; or

(B) the product or service is so inherently governmental in nature that it is in the public interest to require production or performance, respectively, by the Department of Defense.

(2) A determination under paragraph (1) shall be made in accordance with regulations prescribed under subsection (c).

(c) **REGULATIONS.**—The Secretary of Defense shall prescribe regulations for the purposes of this section. Such regulations shall be prescribed in consultation with the Director of the Office of Management and Budget

(d) **REPORT.**—(1) The Secretary of Defense shall identify all activities of the Department of Defense that are carried out to provide commercial products or services for the Department of Defense and that are carried out by personnel of the Department of Defense (other than activities specified by the Secretary pursuant to subsection (b)).

(2) The Secretary shall transmit to Congress, not later than April 15, 1996, a report on matters relating to increased use of the private sector for the performance of commercial functions for the Department of Defense. The report shall include a list of all activities identified under paragraph (1). With respect to each such activity, the report shall indicate whether the activity is performed by the private sector or by personnel of the Department of Defense. In the case of any such activity performed by the Department of Defense, the report shall indicate whether the Secretary proposes to convert the performance of such activity to performance by the private sector and, if not, the reasons why.

(3) The report shall include—

(A) a description of the advantages and disadvantages of using contractor personnel rather than employees of the Department of Defense, to perform functions of the Department that are not essential to the warfighting mission of the Armed Forces;

(B) specification of all legislative and regulatory impediments to contracting those functions for private performance; and

(C) the views of the Secretary of Defense on the desirability of terminating the applicability of OMB Circular A-76 to the Department of Defense.

(4) The Secretary shall carry out paragraph (1) in consultation with the Director of the Office of Management and Budget and the Comptroller General of the United States. In carrying out that paragraph, the Secretary shall consult with, and seek the views of, representatives of the private sector, including organizations representing small businesses.

---

17. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE BATEMAN OF VIRGINIA OR A DESIGNEE

Page 120, line 22, insert after “law enforcement” the following: “or emergency response”.

---

18. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE EDWARDS OF TEXAS OR REPRESENTATIVE GILLMOR OF OHIO OR A DESIGNEE

Page 121, strike out line 3 and all that follows through line 23 on page 130, relating to section 384 of the bill (conversion of civilian marksmanship program to nonappropriated fund instrumentality), and insert in lieu thereof the following new section:

**SEC. 384. CONVERSION OF THE CIVILIAN MARKSMANSHIP PROGRAM TO A FEDERALLY CHARTERED NONPROFIT CORPORATION.**

(a) CORPORATION.—

(1) ESTABLISHMENT.—There is hereby established a private nonprofit corporation, to be known as the Corporation for the Promotion of Rifle Practice and Firearms Safety (in this section referred to as the “Corporation”), for the promotion of rifle practice and firearms safety.

(2) DUTIES.—The Corporation shall be responsible for the supervision, oversight, and control of the Civilian Marksmanship Program.

(3) MEMBERSHIP.—The Corporation shall have a board of directors consisting of nine members. Each member shall serve for a two-year term, except for four members of the initial board of directors, who shall serve a one-year term, and shall be eligible for reappointment. The private members of the National Board for the Promotion of Rifle Practice, as in existence on the day before the date of the enactment of this Act, shall forward nominations for membership on the initial board of directors of the Corporation to the governing body designated by the United States Olympic Committee for international rifle and pistol competition (in this section referred to as the “USOC designee”) not later than 10 days after the date of the enactment of this Act. Unless the nomination is rejected by the USOC designee by written notification to the existing members of the National Board within 30 days of the nomination, the nominee shall be seated as a member of the board of directors

of the Corporation. Members of the board of directors shall nominate individuals to fill subsequent vacancies within 10 days of the vacancy, with a right of rejection reserved to the USOC designee by written notification to the Corporation within 30 days of each nomination.

(4) **DIRECTOR OF CIVILIAN MARKSMANSHIP AND STAFF.**—The Corporation shall appoint a person to serve as the Director of Civilian Marksmanship, who shall be responsible for the day to day operations of the Corporation and the Civilian Marksmanship Program. Subject to the approval of the Corporation, the Director and civilian employees of the Corporation may enroll or remain enrolled without penalty or loss of credit in all pension and benefits programs available to civilian employees of the Department of Defense, the employer's contribution to be paid by the Corporation.

(b) **SOLICITATION AND RECEIPT OF FUNDS.**—

(1) **IN GENERAL.**—The Corporation and the Director may solicit, accept, hold, use, and dispose of, in furtherance of the activities of the Civilian Marksmanship Program, donations of money, property, and services received by gift, devise, bequest, or otherwise.

(2) **USE OF PROCEEDS.**—Amounts collected by the Civilian Marksmanship Program, including the proceeds from the sale of arms, ammunition, targets and other supplies and appliances, shall be used to carry out the Civilian Marksmanship Program.

(3) **TRANSFER OF FUNDS.**—Amounts available to the National Board for the Promotion of Rifle Practice as of the date of enactment of this Act from rifle sales programs and from fees in connection with competitions sponsored by that board shall be transferred to the Corporation to carry out the Civilian Marksmanship Program.

(4) **FEES CHARGED.**—The Corporation may impose such reasonable fees as are necessary to cover the direct and indirect costs to the Corporation, for persons and gun clubs participating in any program or competition conducted under the Civilian Marksmanship Program for the promotion of rifle practice and firearms safety among civilians.

(c) **RESPONSIBILITIES.**—The Corporation, through the Civilian Marksmanship Program, shall provide for—

(1) the operation and maintenance of indoor and outdoor rifle ranges and their accessories and appliances;

(2) the instruction of citizens of the United States in marksmanship, and the employment of trained instructors for the purpose;

(3) the promotion of practice in the use of rifled arms and the maintenance and management of matches and competitions in the use of those arms; and

(4) the award to competitors of trophies, prizes, badges, and other insignia.

(d) **YOUTH ACTIVITIES.**—The Corporation, through the Civilian Marksmanship Program, shall give priority to activities that benefit firearms safety training and competition for youth and reach as many youth participants as possible.

## (e) ELIGIBILITY.—

(1) AFFIDAVIT.—Before a person may participate in any activity sponsored or supported by the Civilian Marksmanship Program, the person shall be required to certify by affidavit the following:

(A) The person has not been convicted of any violation of section 922 of title 18, United States Code. The Director may require any person to attach certification from the appropriate State or Federal law enforcement agency to the person's affidavit.

(B) The person is not a member of any organization that advocates the violent overthrow of the United States Government.

(2) EFFECT OF CONVICTION.—A person who has been convicted of a violation of section 922 of title 18, United States Code, shall not be eligible to participate in any activity sponsored or supported by the Corporation through the Civilian Marksmanship Program.

(3) FURTHER LIMITATIONS ON PARTICIPATION.—The Director may limit participation as necessary to ensure quality instruction in the rifled arms, participant safety, and firearms security.

## (f) ARMS AND AMMUNITION.—

(1) ISSUANCE.—The Corporation may issue, without cost, the arms, ammunition (including caliber .22 and caliber .30 ammunition), targets, and other supplies and appliances necessary for activities related to the Civilian Marksmanship Program. Issuance shall be made only to gun clubs under the direction of the Corporation that provide training in the use of rifled arms to youth, the Boy Scouts of America, 4-H Clubs, Future Farmers of America, and other youth-oriented organizations for training and competition. The Corporation shall be responsible for ensuring adequate oversight and accountability for these arms and ammunition.

(2) SALE TO CLUBS.—The Corporation may sell at fair market value caliber .30 rifles and ammunition for caliber .30 rifles, .22 rifles, and air rifles to gun clubs that are under the direction of the Corporation and provide training in the use of rifled arms. In lieu of sales, the Civilian Marksmanship Program may loan caliber .30 rifles, .22 rifles, and air rifles to such clubs, but the Corporation is responsible for ensuring the oversight and accountability of such rifles.

(3) SALE TO INDIVIDUALS.—The Corporation may sell at fair market value caliber .30 rifles, ammunition, targets, and other supplies and appliances necessary for target practice to citizens of the United States over 18 years of age who are members of a gun club under the direction of the Corporation. Such sales are subject to applicable Federal, State, and local laws. In addition to any other requirement, the Corporation shall provide for a criminal records check of the person with appropriate Federal and State law enforcement agencies, and the Corporation shall not sell weapons or ammunition to a person who has been convicted of a felony or Federal or State firearms violation.

(g) OTHER DUTIES.—The Corporation shall provide for or assist in providing for—

(1) the procurement of necessary supplies, appliances, trophies, prizes, badges, and other insignia, clerical and other services, and labor to carry out the Civilian Marksmanship Program; and

(2) transportation of employees, instructors, and civilians to give or receive instruction or to assist or engage in practice in the use of rifled arms, and the transportation and subsistence, or an allowance in lieu of subsistence, of members of teams authorized by the Corporation to participate in matches or competitions in the use of rifled arms.

(h) AUTHORITY OF SECRETARY OF DEFENSE TO SELL SURPLUS ARMS AND AMMUNITION.—Subject to section 1208 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 10 U.S.C. 372 note), relating to the transfer of excess small arms and ammunition to support Government counter-drug activities, the Secretary of the Army shall reserve for the Civilian Marksmanship Program all remaining M-1 Garand rifles, and ammunition for such rifles, held by the Army on the date of the enactment of this Act. After such date, the Secretary of the Army shall cease demilitarization of remaining M-1 Garand rifles in the Army inventory unless such rifles are determined to be irreparable by the Defense Logistics Agency. Any transfers of arms and ammunition to the Corporation under this section shall be made without cost to the Civilian Marksmanship Program, except that the Corporation shall assume the cost of preparation and transportation of the transferred rifles.

(i) LOGISTICAL SUPPORT TO CIVILIAN MARKSMANSHIP PROGRAM.—The Secretary of Defense, under such regulations as the Secretary may prescribe, may provide logistical support to the Civilian Marksmanship Program, for competitions and other activities conducted by the Corporation. The Secretary shall recoup only the incremental cost for this support from the Corporation. The National Matches may continue to be held at the current Department of Defense facilities as part of the support authorized under this section.

(j) REPEAL.—(1) Sections 4307, 4308, 4310, and 4311 of title 10, United States Code, are repealed.

(2) The table of sections at the beginning of chapter 401 of such title is amended by striking out the items relating to sections 4307, 4308, 4310, and 4311.

---

19. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE LEWIS OF CALIFORNIA OR REPRESENTATIVE SKEEN OF NEW MEXICO OR A DESIGNEE

At the end of title III (page 153, after line 25), insert the following new section:

**SEC. 396. AUTHORIZED EXPANSION OF SOUTHWEST BORDER STATES ANTI-DRUG INFORMATION SYSTEM.**

(a) FINDING.—Congress finds that the Southwest Border States Anti-Drug Information Systems program is an essential component of the counter-drug program of the Department of Defense.

(b) **EXPANSION OF PROGRAM.**—Using such funds as may be made available to carry out the Southwest Border States Anti-Drug Information Systems program, the Secretary of Defense shall begin implementation of phase II of this program during fiscal year 1996.

---

20. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE DORNAN  
OF CALIFORNIA OR A DESIGNEE

At the end of subtitle B of title V (page 189, after line 7), insert the following new section:

**SEC. 519. ACTIVITY DUTY ASSOCIATE UNIT RESPONSIBILITY.**

(a) **ASSOCIATE UNITS.**—Subsection (a) of section 1131 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2540) is amended to read as follows:

“(a) **ASSOCIATE UNITS.**—The Secretary of the Army shall require—

“(1) that each ground combat maneuver brigade of the Army National Guard that (as determined by the Secretary) is essential for the execution of the National Military Strategy be associated with an activity-duty combat unit; and

“(2) that combat support and combat service support units of the Army Selected Reserve that (as determined by the Secretary) are essential for the execution of the National Military Strategy be associated with activity-duty units.”.

(b) **RESPONSIBILITIES.**—Subsection (b) of such section is amended—

“(1) by striking out “National Guard combat unit” in the matter preceding paragraph (1) and inserting in lieu thereof “National Guard unit or Army Selected Reserve unit that (as determined by the Secretary under subsection (a)) is essential for the execution of the National Military Strategy”; and

“(2) by striking out “of the National Guard unit” in paragraphs (1), (2), (3), and (4) and inserting in lieu thereof “of that unit”.

---

21. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE GILMAN  
OF NEW YORK OR A DESIGNEE

Strike out section 563 (page 238, line 1, through page 271, line 19) and insert in lieu thereof the following:

**SEC. 563. DETERMINATION OF WHEREABOUTS AND STATUS OF MISSING PERSONS.**

(a) **PURPOSE.**—The purpose of this section is to ensure that any member of the Armed Forces, and any civilian employee of the United States or contractor of the United States who serves with or accompanies the Armed Forces in the field under orders, is accounted for by the United States (by the return of such person alive, by the return of the remains of such person, or by the decision that credible evidence exists to support another determination of the status of such person) and, as a general rule, is not declared dead solely because of the passage of time.

(b) IN GENERAL.—(1) Part II of subtitle A of title 10, United States Code, is amended by inserting after chapter 75 the following new chapter:

**“CHAPTER 76—MISSING PERSONS**

“Sec.

“1501. System for accounting for missing persons.

“1502. Missing persons: initial report.

“1503. Initial board inquiry; actions of theater component commander and head of the agency.

“1504. Subsequent board inquiry; actions of head of the agency.

“1505. Further review.

“1506. Personnel files.

“1507. Recommendation of status of death.

“1508. Judicial review.

“1509. Persons previously declared dead.

“1510. Procedures applicable in case of civilians.

“1511. Return alive of person declared missing or dead.

“1512. Effect on State law.

“1513. Definitions.

**“§ 1501. System for accounting for missing persons**

“(a) OFFICE FOR MISSING PERSONNEL.—(1) The Secretary of Defense shall establish within the Office of the Secretary of Defense an office to have responsibility for Department of Defense policy relating to missing persons. Subject to the authority, direction, and control of the Secretary of Defense, the responsibilities of the office shall include—

“(A) policy, control, and oversight within the Department of Defense of the entire process for investigation and recovery (including search and rescue) related to missing persons; and

“(B) coordination for the Department of Defense with other departments and agencies of the United States on all matters concerning missing persons.

“(2) In carrying out the responsibilities of the office established under this subsection, the head of the office shall coordinate the efforts of that office with those of other departments and agencies and other elements of the Department of Defense for such purposes and shall be responsible for the coordination for such purposes within the Department of Defense among the military departments, the Joint Staff, and the commanders of the combatant commands.

“(3) The office shall establish policies, which shall apply uniformly through the Department of Defense, for personnel recovery (including search and rescue).

“(4) The office shall establish procedures to be followed by Department of Defense boards of inquiry, and by officers reviewing the reports of such boards, under this chapter.

“(b) OTHER DEPARTMENTS AND AGENCIES.—(1) The Secretary of State shall designate an officer of the Department of State to have responsibility within that Department for matters relating to missing persons.

“(2) The Secretary of Transportation shall designate an officer of the Department of Transportation to have responsibility within that Department for matters relating to missing persons.



“(3) The Director of Central Intelligence shall designate an officer of the Central Intelligence Agency to have responsibility within that Agency for matters relating to missing persons.

“(4) The President shall direct the heads of such other departments and agencies as the President considers appropriate to make a similar designation for their respective departments and agencies.

“(c) UNIFORM DOD PROCEDURES.—(1) The Secretary of Defense shall prescribe procedures, to apply uniformly through the Department of Defense, for—

“(A) the determination of the status of persons described in subsection (d); and

“(B) for the systematic, comprehensive, and timely collection, analysis, review, dissemination, and periodic update of information related to such persons.

“(2) Such procedures shall be prescribed in a single directive applicable to all elements of the Department of Defense.

“(3) As part of such procedures, the Secretary may provide for the extension, on a case-by-case basis, of any time limit specified in section 1502, 1503, or 1504 of this title. Any such extension may not be for a period in excess of one-half of the period with respect to which the extension is provided. Subsequent extensions may be provided on the same basis.

“(d) COVERED PERSONS.—Section 1502 of this title applies in the case of the following persons:

“(1) Any member of the armed forces on active duty who disappears as a result of a hostile action, or under circumstances suggesting that the disappearance is a result of a hostile action, and whose status is undetermined or who is unaccounted for (except under circumstances suggesting that the disappearance is voluntary).

“(2) Any civilian employee of the United States or employee of a contractor of the United States who, while serving with or accompanying the armed forces in the field, disappears under circumstances described in paragraph (1) and whose status is undetermined or who is unaccounted for (except under circumstances suggesting that the disappearance is voluntary).

“(e) PRIMARY NEXT OF KIN.—The individual who is primary next of kin of a person described in subsection (d) may for purposes of this chapter designate another individual to act on behalf of that individual as primary next of kin. The Secretary of Defense shall treat an individual so designated as if the individual designated were the primary next of kin for purposes of this chapter. A designation under this subsection may be revoked at any time by the person who made the designation.

“(f) TERMINATION OF APPLICABILITY OF PROCEDURES WHEN MISSING PERSON IS ACCOUNTED FOR.—The provisions of this chapter relating to boards of inquiry and to actions by the Secretary concerned on the reports of those boards shall cease to apply in the case of a missing person upon that person becoming accounted for or otherwise being determined to be in a status other than the status of missing or missing in action.

**“§ 1502. Missing persons: initial report by unit commander**

“(a) PRELIMINARY ASSESSMENT AND RECOMMENDATION BY COMMANDER.—After receiving information that the whereabouts or status of a person described in section 1501(d) of this title is uncertain and that the absence of the person may be involuntary, the commander of the unit, facility, or area to or in which the person is assigned shall make a preliminary assessment of the circumstances. If, as a result of that assessment, the commander concludes that the person is missing, the commander shall—

“(1) recommend that the person be placed in a missing status; and

“(2) not later than 48 hours after receiving such information, transmit that recommendation to the theater component commander with jurisdiction over the missing person in accordance with procedures prescribed under section 1501(c) of this title.

“(b) FORWARDING OF RECORDS.—The commander making the initial assessment shall (in accordance with procedures prescribed under section 1501(c) of this title) safeguard and forward for official use any information relating to the whereabouts or status of the person that result from the preliminary assessment or from actions taken to locate the person.

**“§ 1503. Initial board inquiry; actions of theater component commander and head of the agency**

“(a) APPOINTMENT OF BOARD.—Not later than ten days after receiving notification under section 1502(a)(2) of this title that a person has been recommended for placement in a missing status, the theater component commander to whom the notification is transmitted shall appoint a board to conduct an inquiry into the whereabouts and status of the person.

“(b) INQUIRIES INVOLVING MORE THAN ONE MISSING PERSON.—If it appears to the commander who appoints a board under this section that the absence or missing status of two or more persons is factually related, the commander may appoint a single board under this section to conduct the inquiry into the whereabouts or status of all such persons.

“(c) COMPOSITION.—(1) A board appointed under this section shall consist of at least one individual described in paragraph (2) who has experience with and understanding of military operations or activities similar to the operation or activity in which the person disappeared.

“(2) An individual referred to in paragraph (1) is the following:

“(A) A military officer, in the case of an inquiry with respect to a member of the armed forces.

“(B) A civilian, in the case of an inquiry with respect to a civilian employee of the United States or of a contractor of the United States.

“(3) An individual may be appointed as a member of a board under this section only if the individual has a security clearance that affords the member access to all information relating to the whereabouts and status of the missing persons covered by the inquiry.

“(d) DUTIES OF BOARD.—A board appointed to conduct an inquiry into the whereabouts or status of a missing person under this section shall—

“(1) collect, develop, and investigate all facts and evidence relating to the disappearance, whereabouts, or status of that person;

“(2) collect appropriate documentation of the facts and evidence covered by the investigation;

“(3) analyze the facts and evidence, make findings based on that analysis, and draw conclusions as to the current whereabouts and status of the person; and

“(4) with respect to each person covered by the inquiry, recommend to the commander who appointed the board that—

“(A) the person be placed in a missing status; or

“(B) the person be declared to have deserted, to be absent without leave, or to be dead.

“(e) INQUIRY PROCEEDINGS.—(1) During the proceedings of an inquiry under this section, a board shall—

“(A) collect, record, and safeguard all facts, documents, statements, photographs, tapes, messages, maps, sketches, reports, and other information (whether classified or unclassified) relating to the whereabouts or status of each person covered by the inquiry;

“(B) gather information relating to actions taken to find the person, including any evidence of the whereabouts or status of the person arising from such actions; and

“(C) maintain a record of its proceedings.

“(2) The commander who appoints a board under this section may request the commander of the combatant command to provide such assistance as the board or the commander may require for purposes of this section.

“(f) COUNSEL FOR MISSING PERSON.—(1) The commander appointing a board to conduct an inquiry under this section shall appoint counsel to represent each person covered by the inquiry, or, in the case described by 1503(c) of this title, one counsel to represent all persons covered by the inquiry. Counsel appointed under this paragraph may be referred to as ‘missing person’s counsel’.

“(2) To be appointed as a missing person’s counsel, a person must—

“(A) have the qualifications specified in section 827(b) of this title (article 27(b) of the Uniform Code of Military Justice) for trial counsel or defense counsel detailed for a general court-martial; and

“(B) have a security clearance that affords the counsel access to all information relating to the whereabouts or status of the person or persons covered by the inquiry.

“(3) A missing person’s counsel—

“(A) shall have access to all facts and evidence considered by the board during the proceedings under the inquiry for which the counsel is appointed;

“(B) shall observe all official activities of the board during such proceedings;

“(C) may question witnesses before the board; and

“(D) shall monitor the deliberations of the board; and

“(4) A missing person’s counsel shall review the report of the board under subsection (i) and submit to the commander who appointed the board an independent review of that report. That review shall be made an official part of the record of the board.

“(g) ACCESS TO PROCEEDINGS.—The proceedings of a board during an inquiry under this section shall be closed to the public (including, with respect to any missing person covered by the inquiry, the primary next of kin, other members of the immediate family, and any other previously designated person designated under section 655 of this title).

“(h) RECOMMENDATION ON STATUS OF MISSING PERSONS.—(1) Upon completion of its inquiry, a board appointed under this section shall make a recommendation to the commander who appointed the board as to the appropriate determination of the current whereabouts or status of each person whose whereabouts were covered by the inquiry.

“(2)(A) A board may not recommend under paragraph (1) that a person be declared dead unless the board determines that the evidence before it established conclusive proof of the death of the person.

“(B) In this paragraph, the term ‘conclusive proof of death’ means evidence establishing that death is the only credible explanation for the absence of the person.

“(i) REPORT.—(1) A board appointed under this section shall submit to the commander who appointed it a report on the inquiry carried out by the board. The report shall include—

“(A) a discussion of the facts and evidence considered by the board in the inquiry;

“(B) the recommendation of the board under subsection (h) with respect to each person covered by the report; and

“(C) disclosure of whether classified documents and information were reviewed by the board or were otherwise used by the board in forming recommendations under subparagraph (B).

“(2) A report under this subsection with respect to a missing person shall be submitted not later than 45 days after the date on which that person is first reported missing.

“(3) A report submitted under this subsection may not be made public until one year after the date on which the report is submitted.

“(j) REVIEW AND DETERMINATION OF STATUS BY COMPONENT COMMANDER.—(1) Not later than 15 days after the date of the receipt of a report under subsection (i), the commander who appointed the board shall review—

“(A) the report; and

“(B) the review of that report submitted under subsection

(f)(4) by the missing person’s counsel.

“(2) In reviewing a report under paragraph (1), the commander receiving the report shall determine whether or not the report is complete and free of administrative error. If the commander determines that the report is incomplete, or that the report is not free of administrative error, the commander may return the report to the board for further action on the report by the board.

“(3) Upon a determination by the commander reviewing a report under this subsection that the report is complete and free of ad-

ministrative error, the commander shall make a determination of the status of each person covered by the report.

“(4) The report, together with the determination under paragraph (3), shall be promptly forwarded to the commander of the combatant command for the geographic area in which the missing person disappeared.

“(k) REVIEW BY CINC.—(1) The commander of the combatant command shall review a report received under subsection (j)(4). Not later than 30 days after receiving such report, that commander shall forward that report to the Secretary concerned. In the case of a missing person who is a member of the Army, Navy, Air Force, or Marine Corps, the report shall be forwarded to or through the Secretary of Defense in accordance with procedures prescribed under section 1501(c) of this title.

“(2) The review under paragraph (1) shall be conducted in accordance with procedures prescribed under section 1501(a)(3) of this title.

“(l) DETERMINATION BY SECRETARY.—(1) The Secretary of Defense (or the Secretary of the military department concerned acting under delegation of authority from the Secretary of Defense) shall review the determinations of a theater component commander in a report forwarded under this section.

“(2) After conducting such review, the Secretary shall make a determination, with respect to each person whose status is covered by the report, whether to leave unchanged the status of such person as determined by the theater component commander under subsection (j)(3) or whether to change that status to another appropriate status, as determined by the Secretary.

“(3) In making such determination, the Secretary may convene a board in accordance with section 1504 of this title.

“(m) REPORT TO FAMILY MEMBERS AND OTHER INTERESTED PERSONS.—Not later than 30 days after the date on which the Secretary makes a determination under subsection (k), the Secretary of Defense, acting through the head of the office established under section 1501(a) of this title, shall—

“(1) provide an unclassified summary of the report of the board (including the name of the missing person’s counsel for the inquiry, the names of the members of the board, and the name of the commander who convened the board) to the primary next of kin, to the other members of the immediate family, and to any other previously designated person of the missing person; and

“(2) inform each individual to whom such summary is provided that the United States will conduct a subsequent inquiry into the whereabouts or status of the person not earlier than one year after the date of the first official notice of the disappearance of the missing person, unless information becomes available sooner that would result in a substantial change in the determination of the status of the person.

**“§ 1504. Subsequent board inquiry; actions of head of the agency**

“(a) ADDITIONAL BOARD.—If information on the whereabouts or status of a person covered by an inquiry under section 1503 of this

title becomes available within one year after the date of the submission of the report submitted under section 1502 of this title, the Secretary of Defense, acting through the head of the office established under section 1501(a) of this title, shall appoint a board under this section to conduct an inquiry into the information

“(b) **AUTHORITY FOR INQUIRY.**—The Secretary of Defense may delegate authority over such subsequent inquiry to the Secretary concerned.

“(c) **SECRETARY CONCERNED.**—In this chapter, the term ‘Secretary concerned’, in the case of a civilian employee of the United States or contractor of the United States, means the Secretary of the executive department or head of the agency employing the employee or contracting with the contractor, as the case may be.

“(d) **DATE OF APPOINTMENT.**—The Secretary shall appoint a board under this section to conduct an inquiry into the whereabouts and status of a missing person on or about one year after the date of the report concerning that person submitted under section 1502 of this title.

“(e) **COMBINED INQUIRIES.**—If it appears to the Secretary that the absence or status of two or more persons is factually related, the Secretary may appoint one board under this section to conduct the inquiry into the whereabouts or status of all such persons.

“(f) **COMPOSITION.**—(1) Subject to paragraphs (2) and (3), a board appointed under this section shall consist of the following:

“(A) In the case of a board appointed to inquire into the whereabouts or status of a member of the armed forces, not less than three officers having the grade of major or lieutenant commander or above.

“(B) In the case of a board appointed to inquire into the whereabouts or status of a civilian employee of the United States or an employee of a contractor of the United States—

“(i) not less than three employees of the Department of Defense whose rate of annual pay is equal to or greater than the rate of annual pay payable for grade GS-13 of the General Schedule under section 5332 of title 5; and

“(ii) such members of the armed forces as the Secretary of Defense considers advisable.

“(2) The Secretary shall designate one member of a board appointed under this section as president of the board. The president of the board shall have a security clearance that affords the president access to all information relating to the whereabouts and status of each person covered by the inquiry.

“(3)(A) One member of each board appointed under this subsection shall be an attorney or judge advocate who has expertise in the public law relating to missing persons, the determination of death of such persons, and the rights of family members and dependents of such persons.

“(B) One member of each board appointed under this subsection shall be an individual who—

“(i) has an occupational specialty similar to that of one or more of the persons covered by the inquiry; and

“(ii) has an understanding of and expertise in the official activities of one or more such persons at the time such person or persons disappeared.

“(g) DUTIES OF BOARD.—A board appointed under this section to conduct an inquiry into the whereabouts or status of a person shall—

“(1) review the report under subsection (i) of section 1503 of this title of the board appointed to conduct the inquiry into the status or whereabouts of the person under section 1503 of this title and the recommendation under subsection (j)(3) of that section of the commander who appointed the board under that subsection as to the status of the person;

“(2) collect and evaluate any document, fact, or other evidence with respect to the whereabouts or status of the person that has become available since the completion of the inquiry under section 1503 of this title;

“(3) draw conclusions as to the whereabouts or status of the person;

“(4) determine on the basis of the activities under paragraphs (1) and (2) whether the status of the person should be continued or changed; and

“(5) submit to the Secretary of Defense a report describing the findings and conclusions of the board, together with a recommendation for a determination by the Secretary concerning the whereabouts or status of the person.

“(h) COUNSEL FOR MISSING PERSONS.—(1) When the Secretary appoints a board to conduct an inquiry under this section, the Secretary shall appoint counsel to represent each person covered by the inquiry.

“(2) A person appointed as counsel under this subsection shall meet the qualifications and have the duties set forth in section 1503(f) of this title for a missing person's counsel appointed under that section.

“(3) The review of the report of a board on an inquiry that is submitted by such counsel shall be made an official part of the record of the board with respect to the inquiry.

“(i) ATTENDANCE OF FAMILY MEMBERS AND CERTAIN OTHER INTERESTED PERSONS AT PROCEEDINGS.—(1) With respect to any person covered by an inquiry under this section, the primary next of kin, other members of the immediate family, and any other previously designated person of the missing person may attend the proceedings of the board during the inquiry in accordance with this section.

“(2) The Secretary shall notify each individual referred to in paragraph (1) of the opportunity to attend the proceedings of a board. Such notice shall be provided not less than 60 days before the first meeting of the board.

“(3) An individual who receives a notice under paragraph (2) shall notify the Secretary of the intent, if any, of that individual to attend the proceedings of the board not less than 21 days after the date on which the individual receives the notice.

“(4) Each individual who notifies the Secretary under paragraph (3) of the individual's intent to attend the proceedings of the board—

“(A) in the case of an individual who is the primary next of kin or the previously designated person, may attend the proceedings of the board with private counsel;

“(B) shall have access to the personnel file of the missing person, to unclassified reports (if any) of the board appointed under section 1503 of this title to conduct the inquiry into the whereabouts and status of the person, and to any other unclassified information or documents relating to the whereabouts and status of the person;

“(C) shall be afforded the opportunity to present information at the proceedings of the board that such individual considers to be relevant to those proceedings; and

“(D) subject to paragraph (5), shall be given the opportunity to submit in writing objection to any recommendation of the board under subsection (k) as to the status of the missing person.

“(5) Objections under paragraph (4)(D) to any recommendation of the board shall be submitted to the president of the board not later than 30 days after the date on which the recommendations are made. The president shall include any such objections in the report of the board under subsection (k).

“(6) An individual referred to in paragraph (1) who attends the proceedings of a board under this subsection shall not be entitled to reimbursement by the United States for any costs (including travel, lodging, meals, local transportation, legal fees, transcription costs, witness expenses, and other expenses) incurred by that individual in attending such proceedings.

“(j) AVAILABILITY OF INFORMATION TO BOARDS.—(1) In conducting proceedings in an inquiry under this section, a board may secure directly from any department or agency of the United States any information that the board considers necessary in order to conduct the proceedings.

“(2) Upon written request from the president of a board, the head of a department or agency of the United States shall release information covered by the request to the board. In releasing such information, the head of the department or agency shall—

“(A) declassify to an appropriate degree classified information; or

“(B) release the information in a manner not requiring the removal of markings indicating the classified nature of the information.

“(3)(A) If a request for information under paragraph (2) covers classified information that cannot be declassified, cannot be removed before release from the information covered by the request, or cannot be summarized in a manner that prevents the release of classified information, the classified information shall be made available only to president of the board making the request and the counsel for the missing person appointed under subsection (f).

“(B) The president of a board shall close to persons who do not have appropriate security clearances those portions of the proceeding of the Board during which classified information is discussed. Participants at a proceeding of a board at which classified information is discussed shall comply with all applicable laws and regulations relating to the disclosure of classified information. The Secretary concerned shall assist the president of a board in ensuring that classified information is not compromised through board proceedings.



“(k) RECOMMENDATION ON STATUS.—(1) Upon completion of an inquiry under this subsection, a board shall make a recommendation as to the current whereabouts or status of each missing person covered by the inquiry.

“(2) A board may not recommend under paragraph (1) that a person be declared dead unless—

“(A) proof of death is established by the board; and

“(B) in making the recommendation, the board complies with section 1507 of this title.

“(l) REPORT.—A board appointed under this section shall submit to the Secretary of Defense a report on the inquiry carried out by the board, together with the evidence considered by the board during the inquiry. The report may include a classified annex.

“(m) ACTIONS BY SECRETARY.—(1) Not later than 30 days after the receipt of a report from a board under subsection (k), the Secretary shall review—

“(A) the report;

“(B) the review of the report submitted to the Secretary under subsection (f)(3) by the counsel for each person covered by the report; and

“(C) the objections, if any, to the report submitted to the president of the board under subsection (g)(6).

“(2) In reviewing a report under paragraph (1) (including the review and objections described in subparagraphs (A) and (B) of that paragraph), the Secretary shall determine whether or not the report is complete and free of administrative error. If the Secretary determines that the report is incomplete, or that the report is not free of administrative error, the Secretary may return the report to the board for further action on the report by the board.

“(3) Upon a determination by the Secretary that a report reviewed under this subsection is complete and free of administrative error, the Secretary shall make a determination concerning the status of each person covered by the report.

“(n) REPORT TO FAMILY MEMBERS AND OTHER INTERESTED PERSONS.—Not later than 90 days after the date on which a board submits a report on a person under subsection (l), the Secretary of Defense shall—

“(1) with respect to each missing person whose status or whereabouts are covered by the report, provide an unclassified summary of the report to the primary next of kin, the other members of the immediate family, and any other previously designated person; and

“(2) in the case of a person who continues to be in a missing status, inform each individual referred to in paragraph (1) that the United States will conduct a further investigation into the whereabouts or status of the person not later than three years after the date of the official notice of the disappearance of the person, unless information becomes available within that time that would result in a substantial change in the official status of the person.

#### “§ 1505. Further review

“(a) SUBSEQUENT REVIEW.—The Secretary shall conduct subsequent inquiries into the whereabouts or status of any person deter-

mined by the Secretary under section 1504 of this title to be in a missing status.

“(b) FREQUENCY OF SUBSEQUENT REVIEWS.—(1) Subject to paragraph (3), the Secretary shall appoint a board to conduct an inquiry with respect to a person under this subsection—

“(A) on or about three years after the date of the official notice of the disappearance of the person; and

“(B) not later than every three years thereafter.

“(2) In addition to appointment of boards under paragraph (1), the Secretary shall appoint a board to conduct an inquiry with respect to a person under this subsection upon receipt of information that could result in a change or revision of status of a missing person. Whenever the Secretary appoints a board under this paragraph, the time for subsequent appointments of a board under paragraph (1)(B) shall be determined from the date of the receipt of such information.

“(3) The Secretary is not required to appoint a board under paragraph (1) with respect to the disappearance of any person—

“(A) more than 30 years after the first notice of the disappearance of the missing person; or

“(B) if, before the end of such 30-year period, the missing person is accounted for.

“(c) CONDUCT OF PROCEEDINGS.—The appointment of, and activities before, a board appointed under this section shall be governed by the provisions of section 1504 of this title with respect to a board appointed under that section.

#### **“§ 1506. Personnel files**

“(a) INFORMATION IN FILES.—Except as provided in subsection (b), the Secretary of the department having jurisdiction over a missing person at the time of the person’s disappearance shall, to the maximum extent practicable, ensure that the personnel file of the person contains all information in the possession of the United States relating to the disappearance and whereabouts or status of the person.

“(b) CLASSIFIED INFORMATION.—(1) The Secretary concerned may withhold classified information from a personnel file under this section.

“(2) If the Secretary concerned withholds classified information from the personnel file of a person, the Secretary shall ensure that the file contains the following:

“(A) A notice that the withheld information exists.

“(B) A notice of the date of the most recent review of the classification of the withheld information.

“(c) WRONGFUL WITHHOLDING.—Any person who knowingly and willfully withholds from the personnel file of a missing person any information (other than classified information) relating to the disappearance or whereabouts or status of a missing person shall be fined as provided in title 18 or imprisoned not more than one year, or both.

“(d) AVAILABILITY OF INFORMATION.—The Secretary concerned shall, upon request, make available the contents of the personnel file of a missing person to the missing person’s primary next of kin,

the other members of the missing person's immediate family, or any other previously designated person of the missing person.

**“§ 1507. Recommendation of status of death**

“(a) REQUIREMENTS RELATING TO RECOMMENDATION.—A board appointed under section 1504 or 1505 of this title may not recommend that a person be declared dead unless—

“(1) credible evidence exists to suggest that the person is dead;

“(2) the United States possesses no credible evidence that suggests that the person is alive;

“(3) representatives of the United States have made a complete search of the area where the person was last seen (unless, after making a good faith effort to obtain access to such area, such representatives are not granted such access); and

“(4) representatives of the United States have examined the records of the government or entity having control over the area where the person was last seen (unless, after making a good faith effort to obtain access to such records, such representatives are not granted such access).

“(b) SUBMITTAL OF INFORMATION ON DEATH.—If a board appointed under section 1504 or 1505 of this title makes a recommendation that a missing person be declared dead, the board shall include in the report of the board with respect to the person under such section the following:

“(1) A detailed description of the location where the death occurred.

“(2) A statement of the date on which the death occurred.

“(3) A description of the location of the body, if recovered.

“(4) If the body has been recovered and is not identifiable through visual means, a certification by a practitioner of an appropriate forensic science that the body recovered is that of the missing person.

**“§ 1508. Judicial review**

“(a) IN GENERAL.—(1) A person referred to in paragraph (2) may obtain review of a finding described in paragraph (3) by the court of appeals of the United States for the circuit in which the person resides or in which the finding was made. Judicial review under this section shall be as provided in section 706 of title 5.

“(2) Paragraph (1) applies to any of the following persons with respect to a missing person subject to a finding described in paragraph (3):

“(A) The primary next of kin of the person.

“(B) A member of the immediate family of the person.

“(C) A dependent of the person.

“(D) A person previously designated by the person.

“(3) Paragraph (1) applies to the following findings:

“(A) A finding by a board appointed under section 1504 or 1505 of this title that a missing person is dead.

“(B) A finding by a board appointed under section 1509 of this title that confirms that a missing person formerly declared dead is in fact dead.

“(4) A person referred to in paragraph (2) shall request review of a finding under this subsection by filing with the appropriate court a written petition requesting that the finding be set aside.

“(b) FINALITY.—The decision of the court of appeals on a petition for review under subsection (a) is final, except that such decision is subject to review by the Supreme Court upon certiorari, as provided in section 1254 of title 28.

“(c) ADDITIONAL REVIEW.—(1) Subject to paragraph (2), upon request by a person referred to in subsection (a)(2), the Secretary concerned shall appoint a board to review the status of a person covered by a finding described in subsection (a)(3) if the court of appeals sets aside the finding and—

“(A) the time allowed for filing a petition for certiorari has expired and no such petition has been duly filed;

“(B) the petition for certiorari has been denied; or

“(C) the decision of the court of appeals has been affirmed by the Supreme Court.

“(2) A person referred to in paragraph (1) shall make a request referred to in that paragraph not later than three years after the date of the event under that paragraph that entitles the person to request the appointment of a board.

#### **“§ 1509. Persons previously declared dead**

“(a) REVIEW OF STATUS.—(1) Not later than three years after the date of the enactment of this chapter, a person referred to in paragraph (2) may submit a request for appointment of a board to review the status of a person previously declared dead while in a missing status, in a case in which the death is declared to have occurred on or after December 7, 1941.

“(2) A board shall be appointed under this section with respect to the death of any person based on the request of any of the following persons:

“(A) The primary next of kin of such person.

“(B) An adult member of the immediate family of the person previously declared dead.

“(C) An adult dependent of such person.

“(D) A person previously designated by such person.

“(3) A request under this section shall be submitted to the Secretary of the executive department or head of the agency of the United States that had jurisdiction over the person covered by the request at the time of the person's disappearance.

“(b) APPOINTMENT OF BOARD.—Upon receiving a request under subsection (a), the official to whom the request is submitted shall appoint a board to review the status of the person covered by the request.

“(c) DUTIES OF BOARD.—A board appointed under this section to review the status of a person previously declared dead shall—

“(1) conduct an investigation to determine the status of the person; and

“(2) issue a report describing the findings of the board under the investigation and the recommendations of the board as to the status of the person.

“(d) EFFECT OF CHANGE IN STATUS.—If a board appointed under this section recommends placing in a missing status a person pre-

viously declared dead, such person shall accrue no pay or allowances as a result of the placement of the person in such status.

“(e) CONDUCT OF PROCEEDINGS.—The appointment of, and activities before, a board appointed under this section shall, to the extent practicable, be governed by the provisions of section 1504 of this title with respect to a board appointed under that section.

**“§ 1510. Procedures applicable in case of civilians**

“(a) IN GENERAL.—In applying the procedures specified in this chapter in the case of a person described in section 1501(d)(2) of this title—

“(1) any reference to the commander of the unit, facility, or area to which the missing person is assigned shall be treated as referring to the local authority or supervisor of the department or agency of the United States under whom the missing person was directly operating or to whom the missing person was responsible;

“(2) any reference to the theater component commander shall be treated as referring to the senior official in the region in which the missing person disappeared of the department or agency of the United States with jurisdiction over the missing person (or, if there is no such official, such other person (including the appropriate theater component commander) as may be designated by the head of that department or agency);

“(3) any reference to the Secretary concerned shall be treated as referring to the head of the department or agency of the United States with jurisdiction over the missing person.

“(b) CINC REVIEW NOT TO APPLY.—The provisions of section 1503(k) shall not apply in the case of a person described in section 1501(d)(2) of this title. In such a case, the report under section 1503(j)(4) of this title shall be submitted directly to the head of the department or agency of the United States with jurisdiction over the missing person.

“(c) RULE FOR DEPARTMENT OF DEFENSE CIVILIANS.—In the case of a person described in section 1501(d)(2) of this title who is an employee of the Department of Defense, or an employee of a contractor of the Department of Defense, the head of the department or agency of the United States with jurisdiction over that person—

“(1) if the person is an employee of, or an employee of a contractor of, a military department, shall be considered to be the Secretary of that military department; and

“(2) otherwise shall be considered to be the Secretary of Defense.

**“§ 1511. Return alive of person declared missing or dead**

“(a) PAY AND ALLOWANCES.—Any person in a missing status or declared dead under the Missing Persons Act of 1942 (56 Stat. 143) or chapter 10 of title 37 or by a board appointed under this chapter who is found alive and returned to the control of the United States shall be paid for the full time of the absence of the person while given that status or declared dead under the law and regulations relating to the pay and allowances of persons returning from a missing status.

“(b) EFFECT ON GRATUITIES PAID AS A RESULT OF STATUS.—Subsection (a) shall not be interpreted to invalidate or otherwise affect the receipt by any person of a death gratuity or other payment from the United States on behalf of a person referred to in subsection (a) before the date of the enactment of this chapter.

**“§ 1512. Effect on State law**

“(a) NONPREEMPTION OF STATE AUTHORITY.—Nothing in this chapter shall be construed to invalidate or limit the power of any State court or administrative entity, or the power of any court or administrative entity of any political subdivision thereof, to find or declare a person dead for purposes of the laws of such State or political subdivision.

“(b) STATE DEFINED.—In this section, the term ‘State’ includes the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

**“§ 1513. Definitions**

“In this chapter:

“(1) The term ‘missing person’ means—

“(A) a member of the armed forces on active duty who is in a missing status; or

“(B) a civilian employee of the United States or of a contractor of the United States who is serving with or accompanying the armed forces under orders and who is in a missing status.

“(2) The term ‘missing status’ means the status of a missing person who is determined to be absent in a status of—

“(A) missing;

“(B) missing in action;

“(C) interned in a foreign country;

“(D) captured, beleaguered, or besieged by a hostile force; or

“(E) detained in a foreign country against that person’s will.

“(3) The term ‘accounted for’, with respect to a person in a missing status, means that—

“(A) the person is returned to United States control alive;

“(B) the remains of the person are returned to the United States; or

“(C) credible evidence exists to support another determination of the person’s status.

“(4) The term ‘member of the immediate family’, in the case of a missing person, means the spouse or a child, parent, or sibling of the person.

“(5) The term ‘previously designated person’, in the case of a missing person, means an individual designated by the missing person under section 655 of this title for purposes of this chapter.

“(6) The term ‘classified information’ means any information the unauthorized disclosure of which (as determined under applicable law and regulations) could reasonably be expected to damage the national security.

“(7) The term ‘theater component commander’ means, with respect to any of the combatant commands, an officer of any of the armed forces who (A) is commander of all forces of that armed force assigned to that combatant command, and (B) is directly subordinate to the commander of the combatant command.”.

(2) The tables of chapters at the beginning of subtitle A, and at the beginning of part II of subtitle A, of title 10, United States Code, are amended by inserting after the item relating to chapter 75 the following new item:

**“76. Missing Persons ..... 1501”.**

(c) CONFORMING AMENDMENTS.—Chapter 10 of title 37, United States Code, is amended as follows:

(1) Section 555 is amended—

(A) in subsection (a), by striking out “When a member” and inserting in lieu thereof “Except as provided in subsection (d), when a member”; and

(B) by adding at the end the following new subsection:

“(d) This section does not apply in a case to which section 1502 of title 10 applies.”.

(2) Section 552 is amended—

(A) in subsection (a), by striking out “for all purposes,” in the second sentence of the matter following paragraph (2) and all that follows through the end of the sentence and inserting in lieu thereof “for all purposes.”;

(B) in subsection (b), by inserting “or is determined under chapter 76 title 10” before the period at the end; and

(C) in subsection (e), by inserting “or under chapter 76 of title 10” after “section 555 of this title”.

(3) Section 553 is amended—

(A) in subsection (f), by striking out “the date the Secretary concerned receives evidence that” and inserting in lieu thereof “the date on which, in a case covered by section 555 of this title, the Secretary concerned receives evidence, or, in a case covered by chapter 76 of title 10 the Secretary concerned determines pursuant to that chapter, that”; and

(C) in subsection (g), by inserting “or under chapter 76 of title 10” after “section 555 of this title”.

(4) Section 556 is amended—

(A) in subsection (a), by inserting after paragraph (7) the following:

“Paragraphs (1), (5), (6), and (7) shall only apply with respect to a case to which section 555 of this title applies.”;

(B) in subsection (b), by inserting “, in a case to which section 555 of this title applies,” after “When the Secretary concerned”; and

(C) in subsection (h)—

(i) in the first sentence, by striking out “status” and inserting in lieu thereof “pay”; and

(ii) in the second sentence, by inserting “in a case to which section 555 of this title applies” after “under this section”.

(d) DESIGNATION OF INDIVIDUALS HAVING INTEREST IN STATUS OF SERVICE MEMBERS.—(1) Chapter 37 of title 10, United States Code, is amended by adding at the end the following new section:

**“§ 655. Designation of persons having interest in status of member as a missing person**

“(a) The Secretary concerned shall, upon the enlistment or appointment of a person in the armed forces, require that the person specify in writing the person (if any), other than that person’s primary next of kin, to whom information on the whereabouts or status of the member shall be provided if such whereabouts or status are investigated under chapter 76 of this title. The Secretary shall periodically, and whenever the member is deployed as part of a contingency operation or in other circumstances specified by the Secretary, require that such designation be reconfirmed, or modified, by the member.

“(b) The Secretary concerned shall, upon the request of a member, permit the member to change the person or persons specified by the member under subsection (a) at any time. Any such change shall be in writing.”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“655. Designation of persons having interest in status of member as a missing person.”.

---

22. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE YOUNG OF ALASKA OR A DESIGNEE

At the end of title V (page 274, after line 11), insert the following new section:

**SEC. 566. SEPARATION BENEFITS DURING FORCE REDUCTION FOR OFFICERS OF COMMISSIONED CORPS OF NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.**

(a) SEPARATION BENEFITS.—Subsection (a) of section 3 of the Act of August 10, 1956 (33 U.S.C. 857a), is amended by adding at the end the following new paragraph:

“(15) Section 1174a, special separation benefits (except that benefits under subsection (b)(2)(B) of such section are subject to the availability of appropriations for such purpose and are provided at the discretion of the Secretary of Commerce).”

(b) TECHNICAL CORRECTIONS.—Such section is further amended—

(1) by striking out “Coast and Geodetic Survey” in subsections (a) and (b) and inserting in lieu thereof “commissioned officer corps of the National oceanic and Atmospheric Administration”; and

(2) in subsection (a), by striking out “including changes in those rules made after the effective date of this Act” in the matter preceding paragraph (1) and inserting in lieu thereof “as those provisions are in effect from time to time”.

(c) TEMPORARY EARLY RETIREMENT AUTHORITY.—Section 4403 (other than subsection (f)) of the National Defense Authorization



Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2702; 10 U.S.C. 1293 note) shall apply to the commissioned officer corps of the National Oceanic and Atmospheric Administration in the same manner and to the same extent as that section applies to the Department of Defense. The Secretary of Commerce shall implement the provisions of that section with respect to such commissioned officer corps and shall apply the provisions of that section to the provisions of the Coast and Geodetic Survey Commissioned Officers' Act of 1948 relating to the retirement of members of such commissioned officer corps.

(d) **EFFECTIVE DATE.**—This section shall apply only to members of the commissioned officer corps of the National Oceanic and Atmospheric Administration who are separated after September 30, 1995.

---

23. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE BATEMAN OF VIRGINIA OR A DESIGNEE

At the end of subtitle C of title VI (page 289, after line 23), insert the following new section:

**SEC. 623. REPEAL OF PROHIBITION ON PAYMENT OF LODGING EXPENSES WHEN ADEQUATE GOVERNMENT QUARTERS ARE AVAILABLE.**

(a) **REPEAL.**—Section 1589 of title 10, United States Code, is repealed.

(b) **CLERICAL AMENDMENT.**—The table of sections at the beginning of chapter 81 of such title is amended by striking out the time relating to section 1589.

---

24. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE HASTINGS OF WASHINGTON OR A DESIGNEE

Page 304, beginning on line 23, strike out “September 30, 1995” and insert in lieu thereof “October 1, 1994”.

---

25. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MOAKLEY OF MASSACHUSETTS OR A DESIGNEE

Page 306, after line 5, insert the following new subsection:

(b) **SENSE OF CONGRESS.**—(1) Congress finds that the Uniformed Services Treatment Facilities provide quality health care to the 120,000 Department of Defense beneficiaries enrolled in the Uniformed Services Family Health Plan provided by these facilities.

(2) In light of such finding, it is the sense of Congress that the Uniformed Services Family Health Plan provided by the Uniformed Services Treatment Facilities should not be terminated for convenience under provisions of the Federal Acquisition Regulation by the Secretary of Defense before the expiration of the current participation agreements.

---

26. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE HASTINGS  
OF WASHINGTON OR A DESIGNEE

Page 307, strike out line 20 and all that follows through line 6 on page 308, relating to section 724 of the bill (equitable implementation of uniform cost sharing requirements for Uniformed Services Treatment Facilities), and insert the following new section:

**SEC. 724. EQUITABLE IMPLEMENTATION OF UNIFORM COST SHARING  
REQUIREMENTS FOR UNIFORMED SERVICES TREATMENT  
FACILITIES.**

(a) TIME FOR FEE IMPLEMENTATION.—The uniform managed care benefit fee and copayment schedule developed by the Secretary of Defense for use in all managed care initiatives of the military health service system, including the managed care program of the Uniformed Services Treatment Facility, shall be extended to the managed care program of a Uniformed Services Treatment Facility no sooner than the later of—

(1) the start of the first fiscal year beginning after the implementation of the TRICARE regional program covering the service area of the Uniformed Services Treatment Facility; or

(2) the start of the first fiscal year beginning 180 days or more after the completion of the evaluation conducted by the Comptroller General of the United States under subsection (b).

(b) EVALUATION.—The Comptroller General of the United States shall conduct an evaluation to assess the impact of the benefit fee and copayment schedule described in subsection (a) on the Uniformed Services Treatment Facilities and to determine whether the benefit fee and copayment schedule may—

(1) cause adverse selection of enrollees;

(2) be inappropriate for a fully at-risk program similar to civilian health maintenance organizations; or

(3) result in an enrolled population dissimilar to the general beneficiary population.

---

27. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE PICKETT  
OF VIRGINIA OR A DESIGNEE

Page 307, strike out line 20 and all that follows through line 6 on page 308, relating to section 724 of the bill (equitable implementation of uniform cost sharing requirements for Uniformed Services Treatment Facilities), and insert the following new section:

**SEC. 724. EQUITABLE IMPLEMENTATION OF UNIFORM COST SHARING  
REQUIREMENTS FOR UNIFORMED SERVICES TREATMENT  
FACILITIES.**

(a) TIME FOR FEE IMPLEMENTATION.—The uniform managed care benefit fee and copayment schedule developed by the Secretary of Defense for use in all managed care initiatives of the military health service system, including the managed care program of the Uniformed Services Treatment Facilities, shall be extended to the managed care program of a Uniformed Services Treatment Facility only after the later of—

(1) the implementation of the TRICARE regional program covering the service area of the Uniformed Services Treatment Facility; or

(2) the end of the 180-day period beginning on the date of the enactment of this Act.

(b) **SUBMISSION OF ACTUARIAL ESTIMATES.**—Paragraph (2) of subsection (a) shall operate as a condition on the extension of the uniform managed care benefit fee and copayment schedule to the Uniformed Services Treatment Facilities only if the Uniformed Services Treatment Facilities submit to the Comptroller General, within 30 days after the date of the enactment of this Act, actuarial estimates in support of their contention that the extension of such fees and copayments will have an adverse effect on the operation of the Uniformed Services Treatment Facilities and the enrollment of participants.

(c) **EVALUATION.**—Not later than 90 days after the date of the enactment of this Act, the Comptroller General shall submit to Congress the results of an evaluation of the effect on the Uniformed Services Treatment Facilities of the extension of the uniform benefit fee and copayment schedule to the Uniformed Services Treatment Facilities. However, the Comptroller General shall not be required to prepare or submit the evaluation if the Uniformed Services Treatment Facilities fail to satisfactorily comply with subsection (b), as determined by the Comptroller General.

**28. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE BATEMAN OF VIRGINIA OR A DESIGNEE**

At the end of title VIII (page 329, after line 13), insert the following new section:

**SEC. 809. COST REIMBURSEMENT RULES FOR INDIRECT COSTS ATTRIBUTABLE TO PRIVATE SECTOR WORK OF DEFENSE CONTRACTORS.**

(a) **DEFENSE CAPABILITY PRESERVATION AGREEMENT.**—The Secretary of Defense may enter into an agreement, to be known as a “defense capability preservation agreement”, with a defense contractor under which the cost reimbursement rules described in subsection (b) shall be applied. Such an agreement may be entered into in any case in which the Secretary determines that the application of such cost reimbursement rules would facilitate the achievement of the policy set forth in section 2501(c) of title 10, United States Code.

(b) **COST REIMBURSEMENT RULES.**—The cost reimbursement rules applicable under an agreement entered into under subsection (a) are as follows:

(1) The Department of Defense shall, in determining the reimbursement due a contractor for its indirect costs of performing a defense contract, allow the contractor to allocate indirect costs to its private sector work only to the extent of the contractor’s allocable indirect private sector costs, subject to paragraph (3).

(2) For purposes of paragraph (1), the allocable indirect private sector costs of a contractor are those costs of the contractor that are equal to the amount by which the revenue attributable to the private sector work of the contractor exceeds the sum of—

(A) the direct costs attributable to such work, and

(B) the incremental indirect costs attributable to such work.

(3) The total amount of allocable indirect private sector costs for a contract in any year of the agreement may not exceed the amount of indirect costs that a contractor would have allocated to its private sector work during that year in accordance with the contractor's established and generally accepted accounting practices.

(c) **RELATIONSHIP TO ACCOUNTING PRACTICE CHANGE.**—The use of such generally accepted accounting practices by a contractor to such an agreement and the implementation of such an agreement does not constitute a change in cost accounting practices within the meaning of section 26(h)(1)(B) of the Office of Federal Procurement Policy Act (41 U.S.C. 422(h)(1)(B)).

(d) **CONTRACTS COVERED.**—An agreement entered into with a contractor under subsection (a) shall apply to all Department of Defense contracts with the contractor either existing on the date on which the agreement was entered into or awarded during the term of the agreement.

---

29. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE EVERETT  
OF ALABAMA OR A DESIGNEE

At the end of title IX (page 345, after line 17), insert the following new section:

**SEC. 909. AVIATION TESTING CONSOLIDATION.**

(a) **LIMITATION.**—The Secretary of the Army may not consolidate the Aviation Technical Test Center with any other aviation testing facility until 60 days after the date on which a report described in subsection (b) is received by Congress.

(b) **REPORT.**—A report referred to in subsection (a) is a report conducted by an entity outside the Department of Defense that evaluates the proposal of the Test and Evaluation Command of the Army to relocate the Aviation Technical Test Center to Yuma Proving Ground, Arizona. The evaluation of such proposal shall include consideration of the following if such a relocation were to be carried out:

(1) The effect on, and cost of, maintenance and logistics capability, including maintenance of a parts inventory, to support the test fleet.

(2) The availability of facilities and infrastructure necessary to conduct the aviation testing mission at Yuma Proving Ground.

(3) The availability of engineers and maintenance technicians to support the aviation testing mission at Yuma Proving Ground.

(4) The effect on current and future aircraft programs.

(5) Synergy of Army aviation.

(6) Consistency with the efforts of the Army to become the Department of Defense leader for rotary wing aircraft.

---

30. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE POMBO OF CALIFORNIA OR REPRESENTATIVE SOLOMON OF NEW YORK OR A DESIGNEE

At the end of title X (page 377, after line 19), insert the following new section:

**SEC. 1033. ROTC ACCESS TO CAMPUSES.**

(a) IN GENERAL.—Chapter 49 of title 10, United States Code, is amended by adding at the end the following new section:

**“§ 983. Institutions of higher education that prohibit Senior ROTC units: denial of Department of Defense grants and contracts**

“(a) DENIAL OF DEPARTMENT OF DEFENSE GRANTS AND CONTRACTS.—(1) No funds appropriated or otherwise available to the Department of Defense may be made obligated by contract or by grant (including a grant of funds to be available for student aid) to any institution of higher education that, as determined by the Secretary of Defense, has an anti-ROTC policy and at which, as determined by the Secretary, the Secretary would otherwise maintain or seek to establish a unit of the Senior Reserve Officer Training Corps or at which the Secretary would otherwise enroll or seek to enroll students for participation in a unit of the Senior Reserve Officer Training Corps at another nearby institution of higher education.

“(2) In the case of an institution of higher education that is ineligible for Department of Defense grants and contracts by reason of paragraph (1), the prohibition under that paragraph shall cease to apply to that institution upon a determination by the Secretary that the institution no longer has an anti-ROTC policy.

“(b) NOTICE OF DETERMINATION.—Whenever the Secretary makes a determination under subsection (a) that an institution has an anti-ROTC policy, or that an institution previously determined to have an anti-ROTC policy no longer has such a policy, the Secretary—

“(1) shall transmit notice of that determination to the Secretary of Education and to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives; and

“(2) shall publish in the Federal Register notice of that determination and of the effect of that determination under subsection (a)(1) on the eligibility of that institution for Department of Defense grants and contracts.

“(c) SEMIANNUAL NOTICE IN FEDERAL REGISTER.—The Secretary shall publish in the Federal Register once every six months a list of each institution of higher education that is currently ineligible for Department of Defense grants and contracts by reason of a determination of the Secretary under subsection (a).

“(d) ANTI-ROTC POLICY.—In this section, the term ‘anti-ROTC policy’ means a policy or practice of an institution of higher education that—

“(1) prohibits, or in effect prevents, the Secretary of Defense from maintaining or establishing a unit of the Senior Reserve Officer Training Corps at that institution, or

“(2) prohibits, or in effect prevents, a student at that institution from enrolling in a unit of the Senior Reserve Officer Training Corps at another institution of higher education.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“983. Institutions of higher education that prohibit Senior ROTC units: denial of Department of Defense grants and contracts.”.

---

31. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE  
TRAFICANT OF OHIO OR A DESIGNEE

At the end of title X (page 377, after line 19), insert the following new section:

**SEC. 1033. APPLICATION OF BUY AMERICAN ACT PRINCIPLES.**

(a) REINSTATEMENT OF PRINCIPLES.—(1) If the Secretary of Defense, after consultation with the United States Trade Representative, determines that a foreign country which is party to an agreement described in paragraph (2) has violated the terms of the agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the Secretary of Defense shall rescind the Secretary’s blanket waiver of the Buy American Act with respect to such types of products produced in that foreign country.

(2) An agreement referred to in paragraph (1) is any reciprocal defense procurement memorandum of understanding, between the United States and a foreign country pursuant to which the Secretary of Defense has prospectively waived the Buy American Act for certain products in that country.

(b) REPORT.—The Secretary of Defense shall submit to Congress a report on the amount of Department of Defense purchases from foreign entities in fiscal year 1996. Such report shall separately indicate the dollar value of items for which the Buy American Act was waived pursuant to any agreement described in subsection (a)(2), the Trade Agreement Act of 1979 (19 U.S.C. 2501 et seq.), or any international agreement to which the United States is a party.

(c) DEFINITION.—For purposes of this section, the term “Buy American Act” means title III of the Act entitled “An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30 1934, and for other purposes”, approved March 3, 1933 (41 U.S.C. 10a et seq.).

---

32. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE McNULTY  
OF NEW YORK OR REPRESENTATIVE SOLOMON OF NEW YORK OR  
A DESIGNEE

At the end of title X (page 377, after line 19), insert the following new section:

**SEC. 1033. POLICY CONCERNING EXCESS DEFENSE INDUSTRIAL CAPACITY.**

(a) FINDINGS.—Congress finds as follows:

(1) The Base Closure and Realignment Commissions have recommended that certain Government-owned defense industrial facilities which produce goods and services that were required during the Cold War, but which are no longer required for the national security, be closed.

(2) The Secretary of Defense has determined that the maintenance of certain other Government-owned defense industrial facilities is necessary to support the research, development, and manufacture of goods and services that are still required to protect the security of the United States.

(3) These Government-owned defense industrial facilities are critical to the security of the Nation and should remain under Government control.

(4) Current work requirements at some of these Government-owned defense industrial facilities have fallen below a reasonably economic level of operation, increasing the cost of producing required goods and services.

(5) Existing law and policy have failed to address adequately the supplemental requirements necessary to operate these Government-owned defense industrial facilities in a cost-efficient manner and, thereby, to maintain appropriate readiness for future national security needs.

(6) The security interests of the United States would be served by the establishment under law of a policy that requires the best-value operation of Government-owned defense industrial facilities.

(7) Such a policy should include, but not necessarily be limited to, requirements that—

(A) the required capability and capacity not being fully used at such Government-owned facilities be maintained with separate funding so as to stabilize operational costs; and

(B) those facilities not be limited by workyear/end strength hiring constraints.

(b) PROHIBITION.—No funds appropriated pursuant to an authorization of appropriations in this Act may be used for capital investment in, or the development and construct of, a defense industrial facility unless the Secretary of Defense certifies to the Congress that no similar capability or minimally used capacity exists in any other Government-owned, Government-operated defense industrial facility.

---

### 33. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE KOLBE OF ARIZONA OR A DESIGNEE

At the end of title X (page 377, after line 19), insert the following new section:

#### **SEC. 1033. USE OF INMATE LABOR AT MILITARY INSTALLATIONS.**

(a) USE OF INMATE LABOR AUTHORIZED.—(1) Chapter 155 of title 10, United States Code, is amended by adding at the end the following new section:

**“§ 2610. State and local correctional institutions: use of inmate labor**

“(a) **USE OF INMATE LABOR.**—The Secretary of a military department may enter into an agreement with a State or local government under which nonviolent offenders incarcerated in a correctional facility under the jurisdiction of that government may be made available to the Secretary to perform the services described in subsection (c) at a military installation under the jurisdiction of the Secretary.

“(b) **EXPENSES.**—(1) Except as provided in paragraph (2), in order to enter into an agreement pursuant to subsection (a), a State or local government shall agree to provide inmates to the Secretary of the military department concerned without charge to the Federal Government. The Secretary shall not provide compensation to an inmate who performs services pursuant to the agreement.

“(2) The Secretary may agree to reimburse the State or local government for administrative and other costs incurred by the government as a direct result of providing and overseeing inmate labor at a military installation. The Secretary may pay a nominal fee to support alcohol and drug abuse treatment programs for the inmates who perform services under the agreement. The Secretary may also furnish equipment, supplies, and other materials to be used by the inmates in performing services under the agreement and provide meals to the inmates while they are present at the installation.

“(c) **AUTHORIZED SERVICES.**—Subject to subject (d), inmates provided to a military installation pursuant to an agreement under subsection (a) may be used to perform the following services:

“(1) Construction, maintenance, or repair of roads at the installation.

“(2) Clearing, maintaining, or reforestation of public lands.

“(3) Construction of levees or other flood prevention structures.

“(4) Custodial services.

“(5) Construction, maintenance, or repair of any other public ways or works.

“(d) **CONDITIONS ON ACCEPTANCE OF SERVICES.**—The Secretary of the military department concerned shall ensure that the use of inmate labor at a military installation under this section does not—

“(1) displace Government employees or defense contractor employees at the installation;

“(2) impair a contract for the provision of services at the installation; or

“(3) involve the performance of services in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality of the installation.

“(e) **ACCEPTANCE OF SERVICES.**—Notwithstanding section 1342 of title 31, United States Code, the Secretary may accept the services provided by inmates made available to a military installation pursuant to an agreement entered into under subsection (a).

“(f) **APPLICATION OF OTHER LAWS.**—The Fair Labor Standards Act of 1938 (29 U.S.C. et seq.), section 1 of the Act of March 3, 1931 (Chapter 411; 40 U.S.C. 276a; commonly known as the Davis-Bacon Act), section 1 of the Act of June 30, 1936 (Chapter 881; 41



U.S.C. 35; commonly known as the Walsh-Healey Act), and section 2 of the Service Contract Act of 1965 (41 U.S.C. 351) shall not apply with respect to the use of inmate labor at a military installation pursuant to an agreement entered into under subsection (a).".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2610. State and local correctional institutions: use of inmate labor.".

(b) **EFFECTIVE DATE.**—Section 2610 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 1995.

---

34. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MORELLA  
OF MARYLAND

At the end of title XII (page 409, after line 18), add the following:

**SEC. 1228. SENSE OF THE CONGRESS REGARDING THE CHEMICAL  
WEAPONS CONVENTION.**

(a) **FINDINGS.**—The Congress finds that—

(1) events such as the March 1995 terrorist release of a chemical nerve agent in the Tokyo subway, the threatened use of chemical weapons during the 1991 Persian Gulf War, and the widespread use of chemical weapons during the Iran-Iraq War of the 1980's are all potent reminders of the menace posed by chemical weapons, of the fact that the threat of chemical weapons is unappreciated and not sufficiently addressed, and of the need to outlaw the development, production, and possession of chemical weapons;

(2) the Convention on the Prohibition of the Development, Production, Stockpiling, and Use of Chemical Weapons and on Their Destruction (hereafter in this section referred to as the "Convention") would establish a more comprehensive ban on chemical weapons, and its negotiation has enjoyed strong bipartisan congressional support, as well as the support of the last 6 administrations, both Republican and Democratic;

(3) United States military authorities, including Chairman of the Joint Chiefs of Staff General John Shalikashvili, have stated that United States military forces will deter and respond to chemical weapons threats with a robust chemical defense and an overwhelming superior conventional response, as demonstrated in the Persian Gulf War, and have testified in support of the Convention's ratification;

(4) the Congress in 1985 mandated the unilateral destruction of the bulk of the chemical weapons stockpile of the United States, and the Convention, which requires participating states to destroy their chemical arsenals and production facilities under international supervision, would accelerate progress toward the disarmament of chemical weapons in a majority of the states believed to harbor chemical weapons capabilities, as this majority is among the Convention's 159 signatories;

(5) the United States chemical industry was an important partner during the negotiation of the Convention, assisted in crafting a reasonable, effective verification protocol, participated in both United States and international trials to imple-

ment provisions of the Convention during its negotiation, and testified in support of the Convention's ratification;

(6) the United States intelligence community has testified that the Convention will provide new and important sources of information, through regular data exchanges and routine and challenge inspections, to improve the ability of the United States to assess the chemical weapons status in countries of concern;

(7) the Convention will gradually isolate and automatically penalize states that refuse to join by preventing them from gaining access to dual-use chemicals and creating a basis for monitoring illegal diversions of those materials;

(8) the Convention has not entered into force for lack of the requisite number of ratifications; and

(9) the United States played a leading role in drafting the Convention and as a global leader, must remain at the helm of this effort to deter further proliferation of chemical weapons and provide the legal framework that will minimize the threat posed by chemical weapons.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) the United States should signify its commitment to reducing the threat posed by chemical weapons by promptly joining the 28 other nations that have ratified the Convention;

(2) both Houses of Congress should further demonstrate United States preparedness to adopt the Convention by acting expeditiously to pass the required implementing legislation as soon as the Senate gives its advice and consent to the ratification of the Convention;

(3) both Houses of Congress should continue to lend their full support for the indefinite future to programs that maintain, as the Convention allows and monitors, United States defensive preparedness against chemical weapons; and

(4) the United States must be prepared to exercise fully its rights under the Convention, including the request of challenge inspections when warranted, and to exercise leadership in pursuing punitive measures against violators of the Convention, when warranted.

### 35. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE EVERETT OF ALABAMA OR A DESIGNEE.

Page 439, strike out the table relating to the Army National Guard and insert in lieu thereof the following new table:

ARMY NATIONAL GUARD: EXTENSION OF 1993 PROJECT AUTHORIZATIONS

State	Location	Project	Amount
Alabama .....	Tuscaloosa .....	Additions and Alterations Armory	\$800,000
	Union Springs .....	Additions and Alterations Armory	300,000
New Jersey .....	Fort Dix .....	Additions and Alterations Armory	4,750,000
Oregon .....	La Grande .....	OMS .....	995,000
		Armory Addition .....	8,049,000

36. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE KAPTUR  
OF OHIO OR A DESIGNEE

Page 440, after the table relating to the Army Reserve, insert the following new table:

ARMY NATIONAL GUARD: EXTENSION OF 1992 PROJECT AUTHORIZATIONS

State	Location	Project	Amount
Ohio .....	Toledo .....	Armory .....	\$3,183,000

37. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MOLINARI  
OF NEW YORK OR REPRESENTATIVE BILBRAY OF CALIFORNIA OR A  
DESIGNEE

At the end of subtitle B of title XXVIII (page 470, after line 21), insert the following new section:

**SEC. 2814. REMOVAL OF BASE CLOSURE PROPERTIES FROM APPLICATION OF SECTION 502 OF THE STEWART B. McKINNEY HOMELESS ASSISTANCE ACT.**

(a) CLOSURES UNDER 1988 ACT.—(1) Section 204(b) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note) is amended by striking out paragraph (6) and inserting in lieu thereof the following new paragraph:

“(6) Section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411) shall not apply with respect to the transfer or disposal of real property located at military installations closed or realigned under this title.”.

(b) CLOSURES UNDER 1990 ACT.—(1) Section 2905(b) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by striking out paragraphs (6) and (7) and inserting in lieu thereof the following new paragraph:

“(7) Section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411) shall not apply with respect to transfer or disposal of real property located at military installations closed or realigned under this part.”.

38. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE  
TRAFICANT OF OHIO OR A DESIGNEE

At the end of subtitle C of title XXVIII (page 490, after line 2), insert the following new section:

**SEC. 2834. LAND CONVEYANCE, ARMY RESERVE CENTER, YOUNGSTOWN, OHIO.**

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the City of Youngstown, Ohio, all right, title, and interest of the United States in and to a parcel of excess real property, including improvements thereon, that is located at 399 Miller Street in Youngstown, Ohio, and contains the Kefurt Army Reserve Center.

(b) CONDITION OF CONVEYANCE.—The conveyance authorized under subsection (a) shall be subject to the condition that the City

of Youngstown retain the conveyed property for the use and benefit of the Youngstown Fire Department.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the City of Youngstown.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

---

39. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE FORBES  
OF NEW YORK OR A DESIGNEE

At the end of subtitle C of title XXVII (page 490, after line 2), insert the following new section:

**SEC. 2834. MODIFICATION OF LAND CONVEYANCE, NAVAL WEAPONS INDUSTRIAL RESERVE PLANT, CALVERTON, NEW YORK.**

(a) CONDITION ON CONVEYANCE.—Subsection (b) of section 2833 of the Military Construction Authorization Act for Fiscal Year 1995 (division B of Public Law 103–337; 108 Stat. 3061) is amended by striking out “to replace all or a part of the economic activity lost at the Naval Weapons Industrial Reserve Plant”.

(b) REMOVAL OF REVERSIONARY INTEREST; ADDITION OF LEASE AUTHORITY.—Subsection (c) of such section is amended to read as follows:

“(c) LEASE AUTHORITY.—Until such time as the real property described in subsection (a) is conveyed by deed, the Secretary may lease the property, along with improvements thereon, to the Community Development Agency in exchange for security services, fire protection, and maintenance provided by the Community Development Agency for the property.”

(c) CONFORMING AMENDMENTS.—Subsection (e) of such section is amended by striking out “subsection (a)” and inserting in lieu thereof “subsection (a) or a lease under subsection (c)”.

---

40. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE HASTINGS  
OF WASHINGTON OR A DESIGNEE

At the end of subtitle C of title XXVIII (page 490, after line 2), insert the following new section:

**SEC. 2834. LAND EXCHANGE, FORT LEWIS, WASHINGTON**

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to Weyerhaeuser Real Estate Company, Tacoma, Washington (in this section referred to as “WRECO”), all right, title, and interest of the United States in and to a parcel of real property at Fort Lewis, Washington, known as an unimproved portion of Tract 1000 (formerly being in the DuPont Steilacoom Road, consisting of approximately 1.23 acres), and Tract 26E, 0.03 acre.

(b) CONSIDERATION.—As consideration for the conveyance authorized by subsection (a), WRECO shall convey or cause to be conveyed to the United States by warranty deed all right, title, and interest in and to a 0.039 acre parcel of real property located with-

in the boundaries of Fort Lewis, Washington, together with other consideration acceptable to the Secretary. The total consideration conveyed to the United States shall not be less than the fair market value of the land conveyed under subsection (a).

(c) DETERMINATION OF FAIR MARKET VALUE.—The determinations of the Secretary of the Army regarding the fair market values of the parcels of real property and improvements to be conveyed pursuant to subsections (a) and (b) shall be final.

(d) Description of Property.—The exact acreage and legal description of the parcels of real property to be conveyed pursuant to subsections (a) and (b) shall be determined by surveys that are satisfactory to the Secretary of the Army. The cost of such surveys shall be borne by WRECO.

(e) EFFECT ON EXISTING REVERSIONARY INTEREST.—The Secretary may enter into an agreement with the appropriate officials of Pierce County, Washington, under which—

(1) the existing reversionary interest of Pierce County in the lands to be conveyed by the United States under subsection (a) is extinguished; and

(2) the conveyance to the United States under subsection (b) is made subject to a similar reversionary interest in favor of Pierce County in the lands conveyed under such subsection.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances under this section as the Secretary considers appropriate to protect the interests of the United States.

---

41. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE HALL OF OHIO OR A DESIGNEE

On page 532, after line 5, insert the following new section:

**SEC. 3145. ACCELERATED SCHEDULE FOR ENVIRONMENTAL MANAGEMENT ACTIVITIES.**

(a) ACCELERATED CLEANUP.—The Secretary of Energy shall accelerate the schedule for environmental management activities and projects for any specific Department of Energy defense nuclear facility site if, in the opinion of the Secretary, such an accelerated schedule will result in substantial long-term cost savings to the Federal Government and speed up release of land for economic development.

(b) SITE SELECTION.—In selecting sites for an accelerated schedule under subsection (a), the Secretary shall give highest priority to sites that are in close proximity to populated areas, that pose significant risk, and that have the greatest potential to result in privatization, commercialization, and economic development of unneeded facilities.

(c) ELIGIBILITY.—For purposes of subsection (a), environmental management activities and projects shall be eligible for an accelerated schedule under subsection (a) if the time for completion at the site of such activities can be reduced by 50 percent or more below the time established in the report of the Department of Energy Office of Environmental Management titled “1995 Baseline Environmental Management Report”, March 1995.

(d) SAVINGS PROVISION.—Nothing in this section shall be construed as affecting a specific statutory requirement for a specific project, being contrary to a statutory requirement existing as of the date of the enactment of this Act, or increasing the risk of injury to an individual or to a community.

---

42. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE SOLOMON  
OF NEW YORK OR A DESIGNEE

At the end of title IX (page 345, after line 17), insert the following new section:

**SEC. 909. NAVAL NUCLEAR PROPULSION PROGRAM.**

No department or agency may (except as otherwise provided by law) regulate or direct any function of the Naval Nuclear Propulsion Program without the concurrence of the Secretary of Defense and the Secretary of Energy. Any change in the basic structure of that program, the basic authorities exercised under that program, or the basic functions and responsibilities carried out through that program may only be made by law.

EXPLANATION: This amendment would serve to reinforce the existing oversight authority the Navy maintains over the Naval Nuclear Propulsion Program.

---

43. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE HUNTER  
OF CALIFORNIA OR A DESIGNEE

Page 326 (section 805), line 5, strike “VESSEL COMPONENTS.—” and insert in lieu thereof “VESSEL COMPONENTS FOR ALL BRANCHES OF THE ARMED FORCES.—”.

Page 326 (section 805), strike lines 14 through 20 and insert in lieu thereof the following:

“(B) Ship and marine equipment, including the following: cable assemblies, hose assemblies, hydraulics and pumps for steering, gyrocompasses, marine autopilots, electronic navigation chart systems, navigators, attitude and heading reference units, power supplies, radars, steering controls, pumps, engines, turbines, reduction gears, motors, refrigeration systems, generators, propulsion and machinery control systems, and totally enclosed lifeboards, including associated davits and winches.”.

EXPLANATION OF AMENDMENT: This amendment would expand the items covered under the Buy America provisions. Specifically these items relate to marine equipment.

---

44. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE DELLUMS  
OF CALIFORNIA OR A DESIGNEE

In title III (page 63, after line 6), insert the following new section:

**SEC. 304. OFFICE OF ECONOMIC ADJUSTMENT.**

Of the amount authorized in section 301(5) for Defense-wide activities, \$60,578,000 is for the Office of Economic Adjustment of the Department of Defense.

45. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE WOOLSEY  
OF CALIFORNIA OR A DESIGNEE

At the end of subtitle C of title XXVIII (page 490, after line 2), insert the following new section:

**SEC. 2834. MODIFICATION OF EXISTING LAND CONVEYANCE, HAMILTON AIR FORCE BASE.**

(a) **AUTHORITIES IN EVENT OF PARTIAL SALE.**—In the event that the purchaser purchases only a portion of the Sale Parcel and exercises its option to withdraw from the sale as to the rest of the Sale Parcel, the portion of the Sale Parcel that is not purchased (other than Landfill 26 and an appropriate buffer area around it and the groundwater treatment facility site), together with any of the land referred to in section 9099(e) of Public Law 102–396 that is not purchased by the purchaser, may be sold to the City of Novato, in the State of California, for the sum of One Dollar as a public benefit transfer for school, classroom or other educational use, for use as a public park or recreation area or for further conveyance as provided herein, subject to the following restrictions: (1) if the City sells any portion of such land to any third party within 10 years after the transfer to the City, which sale may be made without the foregoing use restrictions, any proceeds received by the City in connection with such sale, minus the demonstrated reasonable costs of conducting the sale and of any improvements made by the City to the land following its acquisition of the land (but only to the extent such improvements increase the value of the portion sold), shall be immediately turned over to the Army in reimbursement of the withdrawal payment made by the Army to the contract purchaser and the costs of cleaning up the Landfill and (2) until one year following completion of the cleanup of contaminated soil in the Landfill and completion of the groundwater treatment facilities, the sale must be at a per-acre price for the portion sold that is at least equal to the per-acre contract price paid by the purchaser for the portion of the Sale Parcel purchased under the Agreement and Modification, as amended, and thereafter must be at a price at least equal to the fair market value of the portion sold. The foregoing restrictions shall not apply to a transfer to another public or quasi-public agency for public uses of the kind described above. The deed to the City shall contain a clause providing that, if any of the proceeds referred to in clause (1) are not delivered to the Army within 30 days after sale, or any portion of the land not sold as provided herein is used for other than education, park or recreational uses, title to the applicable portion of such land shall revert to the United States at the election of the Administrator of the General Services Administration. The Secretary of the Army shall agree to deliver into the applicable closing escrow an acknowledgment of receipt of any proceeds described in clause (1) above and a release of the reverter right as to the affected land, effective upon such receipt.

(b) SPECIAL CONVEYANCE REGARDING BUILDING 138 PARCEL.—The Secretary of the Army may convey the Building 138 parcel, which has been designated by the parties as Parcel A4 to the purchaser of the Sale Parcel. The per-acre price for the portion sold shall be at least equal to the per-acre contract price paid by the purchaser for the portion of the Sale Parcel purchased under the Agreement and Modification, dated September 25, 1990, as amended.

---

46. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE SPRATT  
OF SOUTH CAROLINA OR A DESIGNEE

In the matter proposed to be added by section 805(c) (page **XXX**, after line **XXX**), insert before the period the following: “, notwithstanding section 33 of the Office of Federal Procurement Policy Act (41 U.S.C. 429)”.

---

PART 3

(The amendment modifying the committee amendment in the nature of a substitute):

Page 541, strike lines 3 through 15, and insert the following new subsection:

“(e) TREATMENT OF STATE OF CALIFORNIA CLAIM.—(1) All claims against the United States by the State of California or the Teachers’ Retirement Fund of the State of California with respect to land within the Naval Petroleum Reserve Numbered 1 or production or proceeds of sale from the reserve shall be resolved only as follows:

“(A) A payment from funds provided for this purpose in advance in appropriation Acts.

“(B) A grant of nonrevenue generating land in lieu of such a payment pursuant to sections 2275 and 2276 of the Revised Statutes of the United States (43 U.S.C. 851 and 852).

“(C) Any other means that would not be inconsistent with the Congressional Budget Act of 1974 (2 U.S.C. 621 et seq.).

“(D) Any combination of subparagraphs (A), (B), and (C).

“(2) The value of any payment, grant, or means (or combination thereof) under paragraph (1) may not exceed an amount equal to seven percent of the proceeds from the sale of the reserve, after deducting the costs incurred to conduct the sale.